RECEIVED

TOWN of ROCKPORT WARRANT for ANNUAL TOWN MEETING

2023 MAR 23 AM 8: 47

Saturday, April 1, 2023
The Commonwealth of Massachusetts

Essex, ss.

To:

One of the Constables of the Town of Rockport, Massachusetts in said County of Essex in the Commonwealth of Massachusetts.

GREETINGS: In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said Town qualified to vote in Town affairs to meet and assemble at the Rockport High School campus at 24 Jerden's Lane in said Rockport on Saturday, the first day of April, 2023 A.D., at 8:30 in the morning, then and there to act on the following articles, to wit:

ARTICLES: F

Fiscal Year 2023

ARTICLE I.

To see if the Town will vote to appropriate by transfer from available funds sums of money to be expended by various Town Departments to balance the FY23 budget; or act on anything relative thereto. (Town Accountant) (requires majority vote)

ARTICLE II.

To see if the Town will vote to appropriate by transfer from the SPED Stabilization fund to the School Department to pay for Special Education obligations; or act on anything relative thereto. (School Committee) (requires 2/3 vote)

ARTICLE III.

To see if the Town will vote to raise and appropriate or appropriate by transfer from available funds, including Free Cash, a sum of money to fund otherwise unanticipated costs of coping with the COVID-19 pandemic; including personnel costs and all other expenses; or act on anything relative thereto. (Board of Selectmen) (requires majority vote)

ARTICLES:

Fiscal Year 2024

ARTICLE 1.

To choose an agent for the various trust funds of the Town and to choose all other necessary Town Officers in such a manner as the Town may direct; or act on anything relative thereto. (Board of Selectmen) (requires majority vote)

ARTICLE 2.

To see if the Town will vote to raise and appropriate a sum of money to pay unpaid bills and/or payroll of previous years; or act on anything relative thereto. (Town Accountant) (requires 4/5 vote)

ARTICLE 3.

To see if the Town will vote to rescind, amend, or revise any one or more of the authorizations previously given to borrow funds for municipal purposes, excluding always, any and all authorizations that have been executed by a borrowing; or act on anything relative thereto. (Town Treasurer) (requires majority vote)

- ARTICLE 4. To see if the Town will vote to amend or revise certain compensation schedules as recommended by the Board of Selectmen and on file in the Town Clerk's Office, which are incorporated herein by reference, namely:
 - A. Compensation Schedules A, B, D and H for salaried employees; and
 - B. Compensation Schedule C for elected officials;

or act on anything relative thereto. (Board of Selectmen) (requires majority vote)

- ARTICLE 5. To see if the Town will vote to raise and appropriate, or transfer from available funds, sums of money for any or all Town expenses and purposes, including, without limiting the foregoing, debt and interest, out-of-state travel, wages and salaries, operation of the Town's departments and offices, and provide for a reserve fund, all for the Fiscal Year beginning on July 1, 2023 through June 30, 2024, inclusive; or act on anything relative thereto. (Finance Committee) (requires majority vote)
 - 5A. To see if the Town will vote to raise and appropriate, or transfer from available funds, sums of money for any and all Town expenses and purposes including, without limiting the foregoing, debt and interest, out-of-state travel, wages and salaries, operation of the Town's Water Enterprise and provide for a reserve fund, all for the Fiscal Year beginning on July 1, 2023 through June 30, 2024, inclusive; or act on anything relative thereto. (Finance Committee) (requires majority vote)
 - 5B. To see if the Town will vote to raise and appropriate, or transfer from available funds, sums of money for any and all Town expenses and purposes including, without limiting the foregoing, debt and interest, out-of-state travel, wages and salaries, operation of the Town's Sewer Enterprise and provide for a reserve fund, all for the Fiscal Year beginning on July 1, 2023 through June 30, 2024, inclusive; or act on anything relative thereto. (Finance Committee) (requires majority vote)
 - 5C. To see if the Town will vote to appropriate and transfer from the FY2024 Estimated Annual Revenue of the Community Preservation Fund a sum of money for any and all necessary and proper expenses of the Community Preservation Committee, all for the Fiscal Year beginning on July 1, 2023 through June 30, 2024, inclusive; or act on anything relative thereto. (Finance Committee) (requires majority vote)

- ARTICLE 6. To see if the Town will vote to appropriate for Capital Outlay Items, such sums of money as set forth in the schedule prepared by the Finance Committee, or any other sum or sums, a copy of which schedule is on file with the Town Clerk and incorporated herein by reference, and to determine whether such sums will be raised by fees, taxation, transferred from available funds, provided by borrowing, or by any combination of the foregoing; or act on anything relative thereto. (Finance Committee) (requires 2/3 vote if funded with borrowing or a stabilization fund)
 - 6A. To see if the Town will vote to appropriate for Capital Outlay Items for the Water Enterprise, sums of money as set forth in the schedule prepared by the Finance Committee, or any other sum or sums, a copy of which schedule is on file with the Town Clerk and incorporated herein by reference, and to determine whether such sums will be raised by fees, taxation, transferred from available funds, provided by borrowing, or by any combination of the foregoing; or act on anything relative thereto. (Finance Committee) (requires 2/3 vote if funded with borrowing or a stabilization fund)
 - Items for the Sewer Enterprise, sums of money as set forth in the schedule prepared by the Finance Committee, or any other sum or sums, a copy of which schedule is on file with the Town Clerk and incorporated herein by reference, and to determine whether such sums will be raised by fees, taxation, transferred from available funds, provided by borrowing, or by any combination of the foregoing; or act on anything relative thereto. (Finance Committee) (requires 2/3 vote if funded with borrowing or a stabilization fund)

ARTICLES: Lottery System

ARTICLE A. To see if the Town will vote to accept the reports of its officers, boards, departments, committees and commissions, as printed in the 2022 Annual Town Report or as otherwise submitted to Town Meeting; or act on anything relative thereto. (Town Moderator) (requires majority vote)

ARTICLE B. To see if the Town will vote to expend a sum of money allocated to the Town under the provisions of M.G.L. Ch. 90 or otherwise, so-called "Chapter 90 monies"; or act on anything relative thereto.

(DPW Commissioners) (requires majority vote)

ARTICLE C. To see if the Town will vote to raise and appropriate or appropriate and transfer from available funds, including Free Cash, the following sums, or any other sum, as a grant to the following charitable organizations

Action, Inc. \$4,000 HAWC \$3,000 Senior Care \$3,100 ; or act on anything relative thereto. (Board of Selectmen) (requires majority vote)

ARTICLE D.

To see if the Town will vote to raise and appropriate or appropriate by transfer from available funds, including Free Cash, the following sums of money to the following Stabilization Funds and Trusts to pay for future expenditures:

General Stabilization Fund	\$150,000
SPED Stabilization Fund	\$300,000
Capital Reserve Stabilization Fund	\$150,000
OPEB Trust Fund	\$100,000
Conservation Trust Fund	\$450

; or act on anything relative thereto. (Board of Selectmen) (requires majority vote)

ARTICLE E.

To see if the Town will vote to raise and appropriate or appropriate by transfer from available funds, including Free Cash, a sum of money for Assessor Revaluation Expenses; or act on anything relative thereto. (Board of Selectmen) (requires majority vote)

ARTICLE F.

To see if the Town will vote, pursuant to the provisions of G.L. c.40, §5B, to create a new special purpose stabilization fund, to be known as the Opioid Settlement Stabilization Fund, which may be expended for all of the purposes allowed by law, including those outlined in applicable opioid-litigation settlement documents, a document prepared by the Substance Abuse Bureau of the Commonwealth's Office of Health and Human Services Department, found at https://www.mass.gov/doc/massachusettsabatement-terms/download entitled "Abatement Strategies", and consistent with any state guidelines or regulations further clarifying allowable uses of opioid litigation settlement funds; and further, to adopt the last paragraph of said §5B and dedicate to such fund, without further appropriation, 100% of the opioid litigation settlement funds received by the Town; and further, to transfer from available funds a sum of money equal to that received or to be received by the Town from opioid litigation settlements resulting from the Town's participation in the national Opioid Multi-District Litigation into said Opioid Settlement Stabilization Fund; or act on anything relative thereto. (Board of Selectmen) (Requires majority vote)

ARTICLE G.

To see if the Town will vote to amend the Town of Rockport Code of By-Laws, CHAPTER 14F, PLASTIC PROHIBITION, as set forth below, specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown in bold; and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness.

C. 14 F SINGLE USE PLASTIC PROHIBITION

Section 1. Single Use Plastic Bag Prohibition.

A. Purpose and Intent

B. Definitions

C. Use Regulations

- a. Thin-film single-use plastic bags shall not be distributed to customers or sold at any retail establishment in the Town of Rockport.
- d. b. Thin-film plastic bags, typically without handles, that are used to contain produce, meat, bulk foods, newspapers, dry cleaning, wet items, and other similar merchandise, are exempt from the provisions of this bylaw.
- b. Retail establishments may provide recyclable paper bags or compostable bags to customers.
- c. Customers are encouraged to bring their own reusable or compostable bags to retail establishments. Retail establishments are strongly encouraged to make reusable bags available for sale to customers at a reasonable price.
- **D.** Administrations and Enforcement

Section 2. Single Use Straw and Stirrer Prohibition

A. Purpose and Intent

B. Definitions

C. Use Regulations

- a. No food establishment, retail establishment, or beverage provider within the Town of Rockport shall use, provide, distribute, or sell plastic straws and/or stirrers.
- b. Nothing in this section precludes food establishments, retail establishments, or beverage providers from using or making non-plastic alternatives, such as those made from paper, compostable plastic, sugar cane, or bamboo, available to customers. Non-plastic alternative straws and/or stirrers shall only be provided upon request by the customer.
- c. It shall not be a violation of Section 2 of this by-law for a food establishment, retail establishment or beverage provider to provide a plastic straw or stirrer to an individual requesting one due to a disability or other physical condition that makes the use of alternative straws or stirrers unduly-impractical.
- D. Administration and Enforcement

Section 3. Disposable Food Service Ware

A. Purpose and Intent

B. Definitions

C. Prohibited Use and Distribution of Food Service Ware

D. Exemptions.

E. Penalties and Enforcement

a. Effective January 1, 2021, Disposable food service ware shall be biodegradable or compostable if used or sold at food establishments.

b. Foods prepared or packaged outside of the Town are exempt from the provisions of this chapter Section 3 of this by-law.

Section 4. Plastic Water Bottle Reduction

A. Purpose and Intent

B. Definitions

C. Use Regulations

D. Exemptions for Emergencies

E. Administration and Enforcement

F. Severability

a. It shall be unlawful to sell in the Town non-sparkling, unflavored drinking water in single-serving bottles of thirty-four (34) ounces or less containing plastic, but not limited to polyethylene terephthalate (PET), bottles, of 1 liter (34 ounces) or less in the Town of Rockport on or after January 1, 2021, unless such bottles are made of one hundred percent (100%) compostable materials or at least fifty percent (50%) biodegradable materials.

b. Sales occurring subsequent to a declaration of an emergency adversely affecting the availability and/or quality of drinking water in Town to Rockport residents by the Emergency Management Director or other duly authorized Town, Commonwealth or United States official shall be exempt from this Section 4a of this by-law until seven (7) days after such declaration has ended.

Section 5. Waiver

a. Any food or retail establishment or other beverage provider may seek an exemption from the requirements of this ehapter by-law by filing a request in writing with the Board of Health. The Board of Health may by a majority vote of its Board waive any specific requirement of this ehapter by-law for a period of not more than one (1) year if the establishment/provider seeking the exemption has demonstrated that strict application of a specific requirement of the by-law would cause undue hardship. For purposes of this ehapter—by-law, an "undue hardship" is a situation unique to the— any food establishment, retail establishment or beverage provider where there are no reasonable alternatives to the use of disposable food service ware single use plastics and compliance with this provision would cause significant economic hardship to that food or retail establishment or beverage provider. Any food or retail establishment or beverage provider granted an exemption must re-apply prior to the end of the one (1) year exemption period and demonstrate continued undue hardship if the establishment/beverage provider wishes to have the exemption extended. The Board of Health's decision to grant or deny an exemption or to grant or deny any extension of a previous issued exemption shall be in writing and may state any terms and conditions it deems necessary. Said decision shall be final.

Section 6. Enforcement and Penalties

a. Enforcement. of this This by-law shall be enforced by the Board of Health or its designated agent.

Any establishment which violates any provision of this ByLaw shall be subject to the following penalties:

- b. Penalties. The penalty for each violation that occurs under this by-law shall be as follows:
 - (i) a written warning for the first offense;
 - (ii) One hundred dollars (\$100) for the second offense; and
 - (iii) Two hundred dollars (\$200) for the third offense and each subsequent offense.

Each day or portion thereof shall constitute a separate offense. All fines shall be payable to the Town of Rockport.

Section 7. Rules and Regulations. The Board of Health for the Town may adopt rules and regulations to effectuate this by-law and may periodically amend said rules and regulations.

Definitions that will appear in an alphabetic list with all other definitions in the Code of By-Laws:

ASTM D6400 STANDARD: The testing standard to designate a bag as "compostable" developed by the American Society for Testing and Materials. This label is placed on plastics that are intended to be composted under aerobic conditions in municipal or industrial composting facilities.

BEVERAGE PROVIDER: Any business, organization, entity, group, or individual located in the Town of Rockport that offers liquid, slurry, frozen, semi-frozen, or other forms of beverages to the public for consumption.

BIODEGRADABLE: Entirely made of wood, paper, bamboo, bagasse or cellulose.

COMPOSTABLE: Refers to bio-plastic or other materials certified to meet the American Society for Testing and Materials International Studies D6400 or D8686, as those standards may be amended. ASTM D6400 is the specification for plastics designed for eompostability composting in municipal or industrial aerobic composting facilities. D6868 is the specification for aerobic eompostability composting of plastics used as coatings on a compostable substrate. Compostable materials shall also include products that conform to ASTM or other third-party standard for home compositing. Any compostable product must be clearly labeled with the applicable standard on the product.

COMPOSTABLE BAG: A bag that conforms to the current American Society for Testing and Materials (ASTM) D6400 Standard specifications for compostability, and is certified and labeled as such by a recognized verification entity

COMPOSTABLE PLASTIC STIRRER: A stirrer designated as compostable as it meets the American Society for Testing and Materials (ASTM) D6400 Standard.

COMPOSTABLE PLASTIC STRAW: A straw designated as compostable as it meets the American Society for Testing and Materials (ASTM) D6400 Standard.

DISPOSABLE FOOD SERVICE WARE: All food and beverage containers, bowls, plates, trays, cartons, cups, lids, straws, stirrers, forks, spoons, knives, film wrap and other items designed for one-time or non-durable uses on or in which any food vendor directly places or packages prepared foods or which used to consume foods (e.g. utensils). This includes, but is not limited to service ware for eat-in foods, takeout foods, and leftover food from partially consumed meals served at food establishments.

FOOD ESTABLISHMENT: An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. This includes, but is not limited to, restaurants, food trucks, caterers, retail food vendors, and temporary food event permit holders. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et. seq., shall be considered a "Food Establishment" for purposes of this ordinance.

PLASTIC STIRRER: A device that is used to mix beverages, intended for only onetime use, and made from plastic material including, but not limited to, polyethylene, polypropylene, and polystyrene.

PLASTIC STRAW: Any single-use plastic straw intended for only onetime use, and made from plastic material including, but not limited to, polyethylene, polypropylene, and polystyrene.

PREPARED FOOD: Food or beverage, which are served, packaged, cooked, chopped, sliced mixed, bottled, frozen, squeezed or otherwise prepared by a Food Establishment within the Town, regardless of whether it is consumed on or off the premises.

RECYCLABLE PAPER BAG: A paper bag that meets all of the following requirements: (1) is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) post-consumer recycled material; (2) is capable of composting, consistent with the timeline and specifications of the American Society for Testing and Materials (ASTM) D6400 Standard.

RETAIL ESTABLISHMENT: Any commercial business facility that sells goods and/or services to the public including, but not limited to, grocery stores, pharmacies, bars, restaurants, liquor stores, retail stores, convenience stores, vendors selling food, clothing, and personal items, dry cleaning services, and theaters.

REUSABLE BAG: A bag, with handles, that is specifically designed for multiple use and is made of thick plastic, cloth, fabric, or other durable materials.

REUSABLE: Products that will be used more than once in its same form by a food establishment. Reusable food service ware includes: tableware, flatware, food or beverage containers, packages or trays, such as, but not limited to, soft drink bottles and milk containers that are designed to be returned to the distributor. Reusable materials include aluminum and glass. Reusable also includes cleanable durable containers, packages, or trays used on premises or returnable containers brought back to the food establishment.

THIN-FILM SINGLE-USE PLASTIC BAG: A bag, typically with handles, with a thickness of 4.0 mils or less, that is provided at the point of sale for transport of purchased products. This includes but is not limited to bags made of high-density polyethylene, low-density polyethylene, or "biodegradable" materials and which do not meet the ASTM D6400 standard specifications

(Government and By-Law) (Requires a majority vote)

ARTICLE H.

To see if the Town will vote to amend the Town of Rockport Code of By-laws, Chapter 2, Section 1, Paragraph a, as set forth below with new text to be inserted in bold; and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness.

CHAPTER 2. TOWN MEETINGS

Section 1. Manner in Which Town Meetings are to be Called

a. Warrants. Every town meeting shall be called pursuant to a warrant issued by the Board of Selectmen which shall state the time and place at which the meeting is to convene and the subjects which are to be acted upon. IN addition to the provisions of M.G.L., for any special town meeting the Select Board shall place on the warrant any citizen's article signed by twenty (20) voters verified by the Registrars. (Non-Binding Citizen Petition) (requires majority vote)

ARTICLE I

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for a special act creating term limits for the town of Rockport by adding the language below to Chapter 3, Section 3 of the Code of Bylaws; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court; and, provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

D. Term Limits. Elected officials shall be eligible to serve 2 consecutive or non-consecutive terms on a board, commission, or

office, and, after serving such terms shall be ineligible for 1 term before being eligible to return to the board, commission, or office on which they once served. They will be eligible to serve another 2 consecutive or non-consecutive terms. Any official appointed to fill an unexpired term will be eligible to serve 2 consecutive or non-consecutive terms after finishing the unexpired term."

(Citizen Petition) (requires majority vote)

Remainder of this page intentionally blank

ARTICLE J.

To see if the Town will vote to amend the Town's Zoning By-Laws as set forth on the immediately following pages, specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown as underlined: (Planning Board) (2/3 vote required)

Remainder of this page intentionally blank

Article | Summary

The proposed changes in this amendment are to:

- Delete sub section Retail and Commercial Use, which contains provisions covered by Building Code or otherwise not generally found in a zoning by-law
- Reduce minimum lot area for a two-family dwelling in the R District to be consistent with that of a single family
- Add clarifying note for how Height and Half Story are calculated.
- Make minor updates to make minor copy edits for consistency throughout the By-law

SECTION VI. AREA AND DIMENSIONS REGULATIONS

A. GENERAL REQUIREMENTS

- 1. Applicability: Except as hereinafter provided, no dwelling house, no principal building or structure, nor any accessory building or structure shall be erected on a lot in any district unless the lot and building or structure shall conform to the requirements in the Schedule of Area and Dimensions. *1
- 2. Projections8: Nothing herein shall prevent the projection of cornices or eaves not exceeding eighteen inches in width, or of uncovered steps, not exceeding more than forty-eight inches from the structure, into any required yard or other open space.
- 3. Gable Dormer: A gable dormer has a ridge line running perpendicular to the ridge line on the wing of the house on which it is placed, and has a sloped roof. The front wall of the dormer shall be set back from the outside edge of the soffit. The length shall not exceed 60% of the length of the ridge line of the roof from which it emanates, with a gable wall setback of four (4) feet, or whichever results in a smaller dormer. The pitch of the dormer roof shall be the same as that of the roof from which it emanates. The word "dormer" refers to one or more dormers. (Added FTM-9-12-11)
- 4. Shed Dormer: A shed dormer has a ridge line parallel to the ridge line of the wing of the house on which it is placed. The front wall of the dormer shall be set back from the outside edge of the soffit. The length shall not exceed 80% of the length of the ridge line of the roof from which it emanates, with a gable wall setback of two (2) feet, or whichever results in a smaller dormer. The pitch of the dormer roof shall be a minimum of 3:12 and shall not rise above the ridge line of the roof from which it emanates. (Added-FTM-9-12-11)
- 5. Height Limitations: No building in any district shall exceed thirty-30 feet in height or two and one-half stories above the ground. Buildings can exceed these limits when authorized by a spécial-permit issued by the Board of Appeals. The height limitation shall not apply to private radio or television antenna, chimneys, flagpoles, church spires, belfries, monuments, water towers or municipal fire towers.
- 6. Corner Lots: For purposes of this BylawBy-law, corner lots shall be considered to have two front yards. The setback of each front yard shall be considered individually.

- i. RETAIL AND COMMERCIAL USE: The following requirements shall apply to all retail and commercial uses of property, in any district, and shall apply to all new construction, reconstruction, conversions, remodeling and subdivisions, of retail and commercial property. There shall be excluded here from only (i) those retail and commercial uses of property that existed on the date of enactment of these provisions. (ii) offices where no merchandise is displayed and (iii) gainful home occupations as defined in Part I.C. hereof.
 - 1. The minimum floor area devoted to retail or commercial use (including-inventory storage and other "backroom" or auxiliary retail functions) shall be 400 square feet per unit. However, in the case of four or more units in the same building under the same ownership, up to one fourth of those units may be as small as 200 square feet per unit, provided that the average of all units in the building remains 500 square feet per unit or greater.
 - 2. The minimum dimension in any direction (width, length, or depth) of the retail or commercial area open to the public shall be an average of 10 feet.
 - 3. The maximum number of retail or commercial units on any floor of any-building shall be four.
 - 4. There shall, be at least one rest room in each building, devoted to retail orcommercial use, for the use of the employees of the retail and commercialenterprises located therein. In addition, any restaurant, or any other buildingcontaining four or more retail or commercial units, shall provide at least onerest room for use by customers.
 - 5. No license or permit (including, but not limited to, a building permit, vendor's license or common victualer's license) shall be issued by any officer, board or agency of the town with respect to any proposed construction, recensions, remodeling, subdivisions, or change of use which does not comply with these standards or for any retail or commercial use proposal to be located in a unit or building which violated these restrictions and provisions.
 - 6. The use of Aoors above the first of retail and commercial property is limited to dwellings, professional or business offices, agencies, studios or storage for the first floor retail or commercial use. Other retail and commercial uses of floors above the first may be granted by special permit from the Board of Appeals.
 - 7. Lot Width: Each lot created shall have at least a minimum lot width of forty feet between the side lot boundary lines from the front to the rear of the lots. Since the side lot boundary lines may be irregular, the lot width shall be measured by a circle of forty feet in diameter inscribed within the side lot of boundary lines. For lots which cannot conform to this width, a special permit Special Permit may be granted by the Board of Appeals.
 - 8. Driveways: Driveways in excess of <u>five hundred (500)</u> feet shall be of sufficient width, suitable grade, and adequate construction to allow for access by emergency vehicles. (Added FTM 9-12-11)
 - Residential Dwellings-(Added FFM-9/14/2015):
 Application and Purpose: This Section applies to residential buildings in the SRAA, SR, RA, and R zoning districts. The purpose of this Section is to require a minimum proportionality between the

size of a building lot and the buildings on that lot.

b. Aggregated Gross Floor Area: "Aggregated Gross Floor Area" is the sum of the Gross Floor Areas of existing or proposed buildings.

e. Gross Floor Area and Side Setbacks:

(1) On a lot of 2 acres or less, no residential building, or any combination of a residential building and accessory building(s), shall have an aggregated Gross Floor Area of greater than 7,000 square feet. The limitation of this section shall apply to the aggregated Gross Floor Area of an existing or proposed residential building and an accessory building proposed for construction on the same lot.

(2) Residential and accessory buildings shall have the following side setbacks:

(n) 20 ft.—for residential buildings with 4,000-5,999 square feet of Gross Floor Area or for any combination of residential and accessory buildings with 4,000-5,999 square feet of Aggregated Gross Floor Area.

(b) 25 ft.—for residential buildings with 6,000 square feet or more of Gross Floor Area or for any combination of residential buildings and accessory buildings with 6,000 square feet or more of Aggregated Gross Floor Area.

B. SCHEDULE OF AREA AND DIMENSIONS - ACCESSORY BUILDINGS OR STRUCTURES *2

Zone	SRAA Single Res. AA±	SR Single Res.	RA Residential A	R Residential	SMR Semi- Residential	G General	D Downtown
Minimum Lot Dir	nensions	•			11.90		
Area square feet- one4 family	40,000	20,000	12,000	10,000	10,000	7,500	5,000
Area square feet- Two family	40,000	20,000	20,000	15,0 00 <u>10,000</u>	15,000	7,500	7,500
Area square feet - other uses***	40,000	20,000	20,000	15,000	15,000	7,500 (10,000 (<u>6</u> 5))	7,500
Frontage on street or way	150	75	75	50	50	50	30
Minimum Requir	ed Yard Dim	ensions/Sc	tbacks (1,87) ***	A			
Front Yard (2)	20	20	20	20	20	15	10 (2A)
Side Yard	15	15	15	10	10	10	10
Rear Yard	15	15	15	10	10	10	10
Max. Bldg. Heigh	t (3)	20000					
Stories (4)	2.5	2.5	2,5	2.5	2,5	2.5	2.5
Feet	30	30	30	30	30	30	30
Coverage (28) **							

Zone	SRAA Single Res. AA*	SR Single Res.	RA Residential A	R Residential	SMR Semi- Residential	G General	D Doyyntovyn ***
Bldg Coverage % of square feet	10%	15%	20%	25%	25%	50%	50%
A a a a a a a a a a a a a a a a a a a a	C4 A	an avalua	Ing A concentry Day	alling Tinite 15	A) (65) Comenda	A ATM 4/	0/2012)
recessory puniting	s or Structur	es, exclud	ing Accessor y Di	cuing cuma (2	EN (GEN) anne par		2(2012)
Accessory Building Min. Bldg. Separation	15	15	15	15	15	10	10

Formatted: Strikethrough

(1) As measured perpendicular to nearest street or way. The front yard setbacks listed in this column apply to all buildings and structures.

Front Yard Setl-Back requirements for residential buildings may be reduced if the setbacks of residential buildings on adjoining lots are less than the minimum front yard set-back specified herein. In such cases the set-back requirement shall be determined by taking the average set back of all residential buildings on the adjoining lots as the set-back for the lot under consideration.

- (2) In the case of a lot having more than one front yard, each average set back shall be calculated individually, using set-backs from the same street or way. *3
- (2A) Within the D District, the provisions of Footnote 2 apply to determining the Front Yard Setback of any structure. The Board of Appeals may grant a Special Permit for a lesser setback than the calculated average setback, including zero-(8) feet. *4
- (3) Vertical distance to ridge or highest point of roof as measured above the average existing grade. No deck shall be constructed above the elevation of the highest habitable story of the structure.
- (3)(4) Half stories with a pitch of no less than 4:12, whose habitable square foot floor area shall not exceed 66% of the square foot floor area of the story directly below it, or 66% of the floor area of the wing of the building directly below it, whichever is smaller. Habitable square foot floor area under a roof is defined in the State Building Code.
- (4)(5) Accessory Buildings or Structures: For purposes of side and rear set-backs only, swimming pools and tennis courts are deemed to be accessory buildings.
- (5)(6) For the purpose of computing Minimum Building Separation, attached decks are deemed to be part of the building". *5
- (6)(7) Minimum lot area for boat yards. Reserved
- (7)(8) Minimum required yard dimensions.
- (8)—For lots that will not conform to building coverage requirements, a special permitSpecial Permit may be granted by the Board of Appeals.

NOTE: All dimensions are in feet unless otherwise noted.

C. MODIFICATIONS AND EXCEPTIONS

- Tidal Boundaries: Where any portion of a lot is covered by tidal waters, the mean high water line as established by the U.S. Coast and Geodetic Survey shall be considered the boundary or boundaries in computing the size of the lot, the square foot area of the lot and the setback of the
- 2. Accessory Building Yard Dimension: Minimum required yard dimensions may be reduced for accessory buildings, excluding accessory dwelling units, by a special permitSpecial Permit issued by the Planning Board-of-Appeals.
- 3. Existing Lots: Any lot which, at the time of the passage of the 1951 Zoning By-Law By-law, or any amendment thereof, was of lesser area than therein specified, and which was described in a deed or shown on a plan recorded with the Registry of Deeds, may be built upon, provided however, that said lot was not subsequently diminished in area, and provided further that if, at the time of the passage of the Zoning By-LawBy-law, or of any amendment thereof, there was other contiguous land of the same owner which might be used in connection with such lot, such contiguous land was used to the amount necessary to conform to the requirements of this section, and such lot was not thereafter diminished in area below the requirements stated in this section. In the case of any lot so described or shown in the Registry of Deeds which is without sufficient other land of the same owner contiguous and capable of use to constitute a lot of the area required in this section, on such lot, the owner may erect and maintain one dwelling and such other structures as will comply with all regulations herein specified except for minimum lot area, provided, in all cases that a lot has at least five thousand square feet of area or fifty feet of frontage. For lots having less than five thousand (5000) square feet or fifty (50) feet of frontage the Board of Appeals may grant special permit Special Permits for the use of such lots.
- STAR-SRAA Zoning District Lot Area Definition: For all residential and non-residential buildings, the lot area required for zoning compliance in the SRAA zoning district shall not include areas subject to protection under Massachusetts Wetlands Protection Act or anything relative thereto (M.G.L.GL c.131, s.40) and the regulations adopted thereunder, as amended, and/or resource areas subject to protection under the Rockport Wetlands By-LawBy-law (Chapter 14A of the Rockport code of By LawBy-laws), as amended, whichever is more restrictive. (Added ATM 03/24/01).
- *1 (amended ATM 4/9/2012)
- *2 (amended ATM 4/9/2012 & 9/14/15& FTM 9-17-2018)
- *3 (Amended ATM 6/10/02)
- *4 (Added FTM 9/12/11)
- *5 (added ATM 4/9/2012)
- * Amended ATM 03/18/00 to include Single Residential AA Districts (SRAA)
- ** Amended STM 9/8/03 to include building coverage
- *** Amended FTM 9/12/11 to include Downtown District & Area of sq. ft other uses.
- ****Amended FTM 9/14/15 to include Residential single, two family and multiples dwellings, accessory buildings, and townhouses shall have the following side setbacks:20 ft.

 - for buildings with 4000-5999 sq. ft. GFA and 25 ft. - for buildings with greater than 6000 sq. ft. GFA

ARTICLE K.

To see if the Town will vote to amend the Town's Zoning By-Laws as set forth on the immediately following pages, specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown as underlined: (Planning Board) (2/3 vote required)

Remainder of this page intentionally blank

Article K Summary

The proposed changes in this amendment are to:

- Consolidate parking requirements into a table format for clarity
- Adjust certain parking requirements to reflect best practices and demand
- Clarify process and oriteria for subsections Shared Parking (formerly Joint and Mixed Uses) and Waivers from Parking Requirements (formerly Modifications)
- Make minor copy edits for clarity and for consistency throughout the By-law

SECTION VII, PARKING REQUIREMENTS

A. GENERAL PARKING REQUIREMENTS TABLE OF OFF-STREET PARKING REQUIREMENTS

The minimum number of off-street parking and loading spaces shall be as set forth in the following table,

Tikan	Minmon Manior alloces
Residential Uses	
Single-Family and Two-Family	I space per unit
Multifamily, Mixed-Use and Townhome	1 space per unit
Business or Industrial	
Retail stores, including consumer service establishments and shops for custom work	1 space per 400 sq. ft of gross floor area
Banks and Financial Institutions	1 space per 500 sq. ft of gross floor area
Professional or Medical Offices	1 space per 500 sq. ft of gross floor
Restaurants (including carry out) and other enteries	I space for every three seats
Hotels, motels and inns -and other places offering overnight establishments	1 space for every room
Wholesale, storage, industrial and manufacturing uses, including business service establishments	1 space per 600 sq. ft of gross floor area
Other Uses	
All other uses not listed	1 space per 400 sq. ft of total building area

No inn, hotel, business, guesthouse, apartment house, townhouse, multiple dwelling, office of a doctor or dentist, or business or industrial building shall be creeted or externally enlarged unless there is provided on the lot of land-associated therewith, off street automobile parking space on the basis of the following minimum-requirements: Retail stores, shops for custom work, consumer service establishments, offices and banks—at least-one off street parking space for each one hundred eighty (180) square feet of ground floor area and for each three-hundred square feet of useable area, other than ground floor area; and, in addition, a minimum of one parking space for every employee working in a building at any given time.

Restaurant and other eating places, theaters—at least one off street parking space for each three seats that are provided for patron use plus one additional space for each three employees.

All places offering overnight accommodations—at least one and one half spaces for each guest room.

Wholesale, storage, industrial and manufacturing uses, including business service establishments, such asprinting, engraving and blueprinting, warehouses and material storage and sales yards, research laboratories, andprocessing, fabricating and assembly plants—at least one off street parking space for each two persons employedor anticipated being employed on the largest shift.

Apartment house, townhouse and multiple dwelling at least one and one half off street parking spaces for each dwelling unit, with no spaces to be located between the building and the street.

D.All-other-uses not provided for—at least one space for each use or at least one off street parking space for each four hundred (400) square feet of floor area of the building, whichever is greater.

For the purpose of this bylow, a space of 200 square feet of approximate dimensions for the parking of an automobile, exclusive of access drives or aisles, shall be considered as one (1) off street space. B. LOCATION OF PARKING SPACES

For multifamily, townhouse, and mixed-use dwellings, parking spaces shall not be located between the principal building and the street.

C. JOINT AND MIXED USESSHARED PARKING

In the case of mixed-uses in the same building or on the same lot, or the joint-use of spaces by two or more separate buildings or uses, the total requirements for off street parking space shall be the sum of the requirements of the various buildings and uses computed separately. Shared use may be made of required parking spaces when determined by the Planning Board to be appropriate based upon an analysis of peak demands. In making such determination, the Planning Board may consider complementary uses and activities having different peak demand periods to share parking facilities, transportation demand management (TDM) measures, and such other means as may be applicable. The Planning Board may require an evaluation prepared by the applicant following the procedures of the Urban Land Institute (ULI) Shared Parking Manual (latest edition) or the ITE Shared Parking Guidelines (latest edition), or other approved procedures determined by the Board. The Planning Board may approve a parking reduction where an active carsharing program is made available to residents and/or employees of a development site, and where cars for the carshare program are available on the site or within a 700-foot walking distance of the site.

D. CONVERSIONS

Buildings converted to any of the above uses shall provide parking as required above. Any inn, hotel, business and industrial building existing on July 1, 1975 if not externally enlarged is exempted and not required to comply with the provision of Section $V\underline{I}$. A and $V\underline{I}$. B.

E. GREENBELT

- All parking areas for more than five vehicles must have a greenbelt measuring at least four (4)
 feet on the sides and rear, and six (6) feet on the front. Whenever possible, parking must be to the
 rear of the building.
- 2. A shield of dense shrubbery or a stockade fence must be provided for screening if a residence is within 75 feet of the parking area.
- 3. One tree, at least three inches in diameter at the base, shall be provided for each six parking spaces or fraction thereof.

F. PLANS REQUIRED

No building permit for the erection, external enlargement or conversion of any building for which parking would be required shall be issued without the submittal of an off-street, on-site parking plan which includes:

- The quantity, location and dimensions of all driveways, maneuvering spaces and aisles, parking spaces, drainage facilities and landscaping (greenbelt);
- The locations, size and type of materials for surface paving, curbing, or wheel stops, trees, screening and lighting;
- 3. The location of all buildings, lot lines, and parking areas, showing setback lines and distances;
- 4. Such other information as the Building Inspector may reasonably require.

All plans required hereunder shall be filed with the Building Inspector, shall be drawn to scales and shall be a scale of not less than one inch equals forty feet.

G.

H. SINGLE AND TWO FAMILY DWELLINGS

1.

J. One on-site, off-street parking space shall be provided for each dwelling unit.

IGG. EXTERNAL ENLARGEMENT

A building shall not be considered externally enlarged unless it exceeds 10% of the first floor area existing on July 1, 1975.

LAIL MODIFICATIONS WAIVERS FROM PARKING REQUIREMENTS

The Parking and Greenbelt requirements set forth in the Part V. may be medified by a special permitissued by the Board of Appeals.

The Board of Appeals (for projects with sixfive or fewer parking spaces) or the Planning Board (for projects with six or more than-six-parking spaces) may issue a Special Permit to waive strict adherence to the requirements of this Section if it finds such application demonstrates satisfactory parking adequacy as evidenced by the results of a parking study conducted pursuant to the standards of the ITE and/or the UL1 prepared by a Professional Engineer duly licensed in the Commonwealth of Massachusetts with demonstrated experience in the Ffields of Traffic Engineering and Transportation Planning, and concurrence with said results by the Planning Board's review consultant.

ARTICLE L.

To see if the Town will vote to amend the Town's Zoning By-Laws as set forth on the immediately following pages, specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown as underlined: (Planning Board) (2/3 vote required)

Remainder of this page intentionally blank

Article L Summary

The proposed changes in this amendment are to:

- . Update language for Trailers for clarity
- · Delete obsolete section on Microwaye antennas
- Delete provision prohibiting an on-site sewerage system serving more than one lot, which conflicts with the Open Space Residential Design provisions
- Clarify development size threshold that triggers the Housing Balance provisions
- Remove definitions from Personal Wireless facility, which are consolidated in the Definitions section
- · Make minor copy edits for clarity and for consistency throughout the By-law

VIII. SPECIAL REGULATIONS

A. EXCAVATIONS ABUTTING ROADS

No excavation lower than the grade of any road upon which such excavation abuts shall be made nearer than twenty (20) feet from such road boundary and the slope on any side of the excavation abutting on a road or an adjoining property shall not be steeper than the angle of repose of that particular soil except as may be authorized by a special permit Special Permit issued by the Board of Appeals.

B. EXTERIOR LIGHTS FOR NON-RESIDENTIAL USES (Amended FTM 9-11-17)

Any newly installed or replaced luminaire with a lamp or lamps rated at a total of 1800 lumens or more and any newly installed or replaced floodlight or spotlight luminaire rated at a total of 900 lumens or more shall not emit light beyond the lot (property) line on which the luminaire is located.

In case of a dispute, a difference of more than 0.1 foot-candles measured with and without the light(s) turned on in darkness, at a height of five (5) feet at the lot (property) line, will indicate noncompliance. The measurement will be made with a calibrated light meter directed at the luminaire.

Municipal streetlights and all temporary or emergency lighting used by police, fire or other emergency services, and temporary holiday lights, are exempt from this restriction. (Amended 03/24/01)

C.

D.C. AUTOMOBILE SERVICE AND FILLING STATIONS

Automobile service and filling stations and car washes, where permitted, are subject to the following requirements:

- 1. No automobile service or filling station or car wash shall be constructed on a lot having less than two hundred (200) feet of frontage or on a lot having less than forty thousand (40,000) square feet of lot area.
- 2. On each lot used for automobile service or filling stations or car washes there shall be provided front, rear and side yard setbacks of not less than fifty (50) feet.

- 3. An open space, not less than twenty (20) feet in depth, shall be maintained along the front, sides and rear of each lot used for automobile service or filling stations or car washes, except for entrance and exit driveways, and such open spaces shall not be built upon, used for parking or paved. They shall be maintained as open spaces and shall be covered with grass, plants, flowers and trees.
- 4. Each automobile service or filling station or car wash site shall be provided with not more than two
 (2) motor vehicle driveways for each abutting street. Each driveway shall intersect the abutting
 street at an angle of ninety (90) degrees. No entrance shall consist of a continuous apron along the
 frontage of the lot. No entrance shall be more than forty feet in width.

E-D. NON-ACCESSORY SIGNS AND BILLBOARDS

Billboards and similar signs are specifically prohibited in the Town of Rockport. The only signs allowed in the Town of Rockport are signs that advertise, call attention to, or indicate the person occupying the premises on which the sign is erected or maintained or the business transacted thereon, or advertises the property itself or any part thereof as for sale or rent, and which contains no other matter. Non-accessory signs are specifically prohibited in the Town of Rockport.

F.E. RAISING OF CERTAIN ANIMALS

The Board of Appeals may grant special permit Special Permits for the raising or maintaining of horses, cattle, poultry, fur-bearing animals, and the operation of a kennel in any district, and the Board may impose such restrictions and provide such regulations with respect to the conduct thereof as in its judgment may seem necessary for the general welfare of the Town. No horses, cattle, poultry or fur-bearing animals, shall be maintained or raised and no kennel shall be operated in any district without a special permit Special Permit issued by the Board of Appeals. The maintaining and keeping of a horse, (including ponies, mules, and donkeys), a home flock of chickens, geese and ducks, and pets, may be done without a special permit Special Permit, subject to the following conditions:

- 1. No horse may be maintained on a property of less than 10,000 square feet.
- a. A minimum setback of 10 feet from all property lines or the established setback of the zoning district, whichever is greater, shall apply to all bounds of a paddock.
- A minimum setback of 20 feet from all property lines or the established setback of the zoning district, whichever is greater, shall apply to all bounds of a stable.
- Not more than three horses may be maintained on any property, and then only for the private use of the occupant or resident owner.

In addition, the Board of Health must approve the maintaining and keeping of the animals and may impose such requirements as are necessary to protect the public health.

This Section E_shall not regulate or restrict the use of land for the primary purpose of agriculture, horticulture or floriculture on parcels of more than five acres.

G.F. TRAILERS

Home trailers, also known as mobile homes, shall not be used for dwelling purposes in any part of Town.

Home trailers may not be stored in any part of Town except unless granted a Special Permit by the Zoning

Board of Appeals, If granted, a Special Permit for the storage of home trailers shall not exceed thirty (30).

days in any calendar year. Automobile trailers, commonly known as home trailers, shall not be used for dwelling purposes in any part of Town nor shall such trailers be stored or parked on any premises in a residence district except that the Board of Appeals may upon written application grant to an owner of premises in any residence district a special permit for dwelling purpose use of an automobile trailer, provided such owner has secured a building permit for the construction of a dwelling on such lot or sile, upon such conditions as the Board of Appeals may prescribe and for a period not to exceed one year.

A single camping trailer, utility trailer, horse trailer, boat or pick-up camper, not exceeding twenty-four (24) feet in length, used by the resident for his own use, may be stored on a residential lot. No such trailer, camper or boat may be used for a dwelling on a residential lot.

H.G. FENCES

No fence shall exceed four (4) feet in height above the ground on any lot lying between the coastline and the nearest public way.

4.H. ALTERNATIVE ENERGY SOURCES

The Board of Appeals may grant permits for equipment of facilities to utilize alternative energy sources. The Board of Appeals may, in any such permit, waive the height, setback and dimensional requirements in this by lawBy-law.

Before granting a special-permit Special Pennit for Wind Energy Conversion Systems (WECS), and in applying the guidelines set forth in this <u>Bylaw By-law</u>, the Board of Appeals shall consider the following factors:

- Use: The WECS should be designed to provide a majority of its average power output for use by the home to which it is an accessory.
- Setbacks: The minimum setback for a WECS from any abutter's property line, or easement from
 that abutter, shall be at least equal to the height of the tower plus the length of the propeller blade
 as measured from the center of the tower base, and in addition, the tower plus propeller length
 shall clear all overhead electric power lines.
- 3. Tower Access: climbing access to the WECS tower shall be limited either by (1) the installation of a fence with locked gates around the tower bases or (2) by limiting lower climbing apparatus to no lower than ten (10) feet from the ground. If a fence is used, it shall be no lower than five (5) feet and constructed in such a manner as to restrict passage through said fence.
- 4. Maintenance: A WECS shall be inspected and serviced annually according to the manufacturer's maintenance manual and will be considered abandoned if not properly maintained for a period of one year or if designated a safety hazard by the Building Inspector. The owner of any WECS which is considered to be abandoned or designated a safety hazard shall be required to dismantle the installation.

All WECS shall be removed by the owner of the facility and at the owner's expense within six (6) months of any declaration of a safety hazard, and within one year of declaration of abandonment by the Building Inspector. The applicant shall post a bond with the Town Treasurer at the time of the issuance of the Special Permit to cover the costs for the removal of the WECS in the event the Town must remove said facility. The amount of the bond shall be determined by the Board of Appeals. *1

- 5. Noise and Electromagnetic Interference: Noise produced by the WECS shall not exceed the average ambient noise level as measured at the base of the tower. WECS generators, alterations and cables shall be shielded and or filtered to prevent the emission of radio frequency energy which may cause interference with radio and/or television reception.
- 6. Safety: The WECS manufacturer shall document that the WECS model operated safely in similar atmospheric conditions for a period of not less than one year. The WECS shall be equipped with a mechanism for locking the propeller in a fixed position at the maximum safe wind speed specified by the manufacturer.
- 7. Construction: Construction of the WECS tower shall be in accordance with all applicable provisions of the state and local building codes for safe tower construction and support. The manufacturer of the WECS shall provide all drawings, specifications, and manuals for the entire WECS and these shall be certified by a registered professional engineer who shall also certify the suitability of the WECS for the site chose for its construction.

Solar Panels, which do not exceed one foot in thickness, nor extend more than two_(2) feet from a building, may be installed on the roof or side of a building as a matter of right, without any special permitSpecial Permit.

n. MICROWAYE ANTENNAS

b.-

J.—Microwave antennas two feet or less in diameter are permitted as a matter of right. The Board of Appeals may grant a special permit for microwave antennas greater than two feet in diameter for reception of microwave signals from geostationary satellites which meet the following conditions:

K.

- L. The microwave antennashall consist of a parabolic reflector (microwave dish) with a microwave receiver at the reflector focus.
- Al. The microwave antenna shall be permanently mounted on the ground on a concrete shab or piersand setback from lot lines according to the Schedule of Areas and Dimensions, Accessory Buildingsof the Zoning by Law.
- N. The manufacturer or a structural engineer shall certify that the microwave automa and its support is satisfactory to withstand wind speeds to 100 miles per hour without being carried away.

0.-

P.I. SEPTIC SYSTEMS

On-site sewerage systems shall be on the lot on which the building serviced by the system is located. An-ensite-sewerage system servicing more than-one-lot is prohibited.

Q.J. HOUSING BALANCE

In order to assure that new residential development being granted special consideration under the Zoning By- LawBy-law will, at minimum, meet its own share of providing for the diversity and balance of housing in

Rockport, the following shall be complied with by all housing developments of six (6) or more residential units authorized by Special Permits.

- At least 10% of the housing units shall be affordable to households having annual incomes that
 do not exceed the maximum levels for Low-or-Moderate-Income_Low- or Moderate-Income
 Housing as established by the Commonwealth's Department of Housing and Community
 Development, and as may be revised from time to time. Fractional requirements of 0.5 or more
 shall be rounded to the next higher number, others being rounded downward. (Amended ATM 49-12)
- An alternative effort approved by the Special Permit Granting Authority Board of Appeals shall
 be made, determined by that authority to make not less contribution than the above toward
 meeting the goal of economically balanced development.
- 3. Continuing affordability shall be assured for at least thirty (30) years through means enforceable by the Town. Applicants shall be required to submit income information sufficient to prove to the local inousing trust, housing authority or other agency as established by the Town that his/her/lic Applicant's or-er-their-Applicant's family's annual income level does not exceed the maximum levels for Lew-or-Moderate Income Low- or Moderate-Income Housing as established by the Commonwealth's Department of Housing and Community Development, and as may be revised from time to time. (Amended ATM 4-9-12)
- 4. The Special-Permit-Granting Authority Board of Appeals, upon its approval of units as being affordable, shall notify the Department of Housing and Community Development, Massachusetts-Executive Office of Communities and Development (EOCD) of that action, together with plans, and shall seek reflection of those units in Department of Housing and Community Development. EOCD determination of local housing need under Chapter MGL c. 40B-M.G.L.

R-K. PERSONAL WIRELESS SERVICES FACILITIES

Purpose: The Federal Telecommunications Act of 1996, 47 U.S.C. 332 (c) (7), preserves the
authority of municipalities to regulate the placement, construction and modification of personal
wireless service facilities, but provides that municipalities shall not unreasonably discriminate
among providers of functionally equivalent services and shall not prohibit or have the effect of
prohibiting the provision of personal wireless service facilities.

Because of the current technological requirements of personal wireless services, there are a finite number of potential sites to construct such facilities. The purpose of this By-lawBy-law is to comply with the Federal Telecommunications Act of 1996 by establishing predictable and balanced regulations of wireless communications facilities that:

- a. ensure that wireless communication facilities are sited, designed, constructed and screened in a manner that is sensitive to the aesthetic and visual resources of the surrounding neighborhoods and the Town of Rockport in general;
- b. protect the public and the public welfare against the adverse impact of such facilities;
- c. regulate the number and height of such facilities and promote the shared use of facilities to reduce the need for multiple towers and/or facilities.

2. Definitions:

- n.—Wireless-Communications-Facility—means-all-materials, equipment, devices, storage-buildings, towers, dishes-and-antennas, used by a commercial telecommunications-earlier to provide cellular radiotelephone services and/or data services and/or personal communication services (PCS). This definition does not include facilities used by a federally licensed annateur radio-operator.
- b. Tower—means-mounting-structure, Including-existing-water-supply-tanks-orstandpipes-and-fixed-derricks, that is used to support reception and/or-transmissionequipment.
- c. Antenna—for-purposes of this by-hay the word "antenna" shall include all panels, dishes-or-other-types-of-equipment used-to-propagate radio-frequency-signals, or-similar devices.
- eta. Non-residential building..-fF or the purpose of Section LJ means, any building that is not used in whole or in part as a dwelling. So called "mixed uses" where a portion of the building is used as a dwelling and the remainder is used for retail, commercial, office or similar uses are excluded from the definition of non-residential buildings. Likewise, buildings which are accessory to a dwelling, such as a garage, barn, carriage house, shed, greenhouse or similar type buildings, are excluded from the definition of nonresidential buildings.

3. General Conditions

- equipment, shall only be erected, installed and utilized in a Wireless Communication Facility Overlay District ("WCFOD").
- b.In all cases a Special-Use Permit ("SUP") is required from the Board of Appeals ("the Board") in accordance with Section XI-XV-Administration, C, 6. and 7.
- c. Where the erection or installation of a tower is required, only freestanding monopole towers without guy wires, are allowed as specified in paragraph 5 below. Lattice style towers and similar structures requiring three or more legs and/or guy wires are prohibited.

£

- d.All wireless communications facilities shall be suitably screened from abutters and residential neighbors and shall be designed and installed to minimize equipment noise.
- e. All towers (except where existing water supply tanks or standpipes or fixed derricks are used), antennas, structures and equipment, shall be removed by the owner of the facility and at the owner's expense within one (1) year from the date of cessation of use as a wireless communications facility. The applicant shall post a bond with the Town Treasurer at the time of the issuance of the Special Permit to cover the costs for the removal of the wireless communications facility in the event the Town must remove said facility. The amount of the bond shall be determined by the Board of Appeals.

g:

- h.f. Where applicable, annual certification, signed by a Radio Frequency Engineer, stating that the RFR measurements are accurate and demonstrating continued compliance with RF and all other standards of the Federal Communications Commission ("FCC"), Federal Aviation Administration ("FAA") and American National Standards Institute ("ANSI") and required maintenance shall be filed with the Building Inspector by the Special-Use Permit holder.
- 2.4. Application Process. All applications for wireless communications facilities shall be made and

filed in compliance with the requirements for Special Permits under the Zoning By-LawBy-law and the Board of Appeals Rules of Procedure. In addition, the following information shall be submitted along with the application form:

- a. A locus plan at a scale of 1"=100' which shall show all property lines, the exact location of the proposed wireless communications facility, existing streets, landscape features, and all buildings within five hundred (500) feet of the facility.
- b. Color photographs or renditions of the proposed wireless communications facility, including towers and antenna. A rendition shall also be prepared illustrating a view of the tower or antenna from the nearest street or streets and eight (8) radial views at forty-five (45) degrees of the site.
- c. Where applicable, the following information prepared by one or more professional engineers:
 - i. a description of the tower and technical, economic and other reasons for the proposed location, height and design.
 - ii. confirmation that the tower complies with all applicable federal and state standards.
 - iii. a description of the capacity of the tower including the number and types of panels, antennas, dishes and/or transmitter receivers that it can accommodate and the basis for these calculations.
- d. A written statement that the proposed facility complies with, or is exempt from, applicable regulations administered by the FAA, the FCC, the Massachusetts Aeronautics commission and the Massachusetts Department of Public Health.
- e. Where a tower is to be erected and installed, the applicant shall place a crane extended to the height of the proposed tower on the site for one day. The date and times that the crane will be on the site shall be advertised in the Gloucester Daily Times on two dates at least one week before the event. The applicant shall take photographs of the extended crane from the nearest street or streets and eight (8) radial views at forty-five (45) degrees of the site from a distance of three hundred (300) feet. Where the applicant proposes to install antennas on an existing water supply tank or standpipe or fixed derrick, they shall take photographs of said water supply tank or standpipe or fixed derrick from the nearest street or streets and eight (8) radial views at forty-five (45) degrees of the site from a distance of three hundred (300) feet. Five sets of said photographs shall be submitted to the Board.
- f. A map showing all existing or proposed wireless communications facilities owned or operated by the applicant in the surrounding communities (Essex, Gloucester, and Manchester-by-the-Sea).
- g. The applicant shall submit radio coverage analysis maps for the proposed antenna height and a minimum of two additional radio analysis maps for lesser antenna heights agreed upon by the Board. The applicant shall also submit radio coverage analysis maps of all proposed or existing adjacent radio sites-(Added ATM March 21, 1998).
- A report describing alternative sites examined in Rockport and the reasons for rejecting these alternative sites.
- The applicant shall arrange and pay for a stenographer to be present and record all hearings on its application and at the applicant's expense, provide the Board with a copy of the transcript of all hearings.
- 3-5. Design Guidelines. The following guidelines shall be used when preparing plans for the siting

and construction of wireless communication facilities:

- Except when located within an existing nonresidential building, wireless communications facilities shall be located a minimum of 300 feet from the nearest residential building.
- b. All towers shall be designed and constructed to the minimum height necessary to accommodate current and anticipated future use. The setback of a tower from the property line on the lot on which it is located shall be at least one hundred and twenty-five (125) percent of the height of the tower.
- c. No tower, including any antenna attached thereto, shall exceed one hundred and thirty (130) feet in height as measured from the ground level at the base of the tower. No tower shall be constructed which requires guy wires.
- d. All towers shall be painted, camouflaged or otherwise colored so they will, as much as possible, blend into the landscape or the structure where they are located. A different coloring scheme shall be used to blend the structure below and above the tree line or building line.
- e. All wireless communications facilities shall be sited in a manner so that the view of the facility from the adjacent abutters, residential neighbors and other areas of the town shall be as limited as possible.
- f. Wireless communications facilities shall be designed to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of facilities that will be required to be constructed in the Town.
- g. Fencing shall be provided to control access to the wireless communications facilities and shall be compatible with the scenic character of the Town and the neighborhood. There shall be no razor wire. Additional natural vegetative screening may be required by the Board.
- Accessory buildings and storage sheds shall not exceed one (1) story in height and shall be designed and sided to be consistent with the character of the neighborhood.
- There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving the telephone number where the owner can be reached on a twenty-four (24) hour-a-aday basis. All signs shall conform to the Rockport Sign By-LawBy-law.
- Night lighting of towers shall be prohibited except when required by the FAA. Lighting shall be limited to that required for emergencies and/or as required by the FAA.
- k. There shall be a minimum of one parking space for each facility to be used in connection with the maintenance of the facility. Said parking space shall not be used for permanent storage of vehicles or other equipment.
- 4.6. Establishment Of Wireless Communications Facilities in Existing Non-Residential Buildings. Wireless Communication Facilities that can be completely enclosed in an existing public or private nonresidential building shall be allowed by Special-Use Permit ("SUP") in any zoning district. All components of the wireless communication facility, including the antenna, shall be enclosed within the existing public or private nonresidential building.

Where proposed antennas cannot be enclosed within the building:

- They shall be limited to a maximum length of twelve (12) feet. Antennas shall not extend more than ten (10) feet in height above the roof line of the building.
- b. Antennas on rooftops or above the structure shall be screened, constructed and/or painted to

match the structure to which they are attached.

- c. Antennas mounted on the side of a building or structure shall be painted to match the color of the building or structure or the background against which they are most commonly seen.
- All other wireless communication facilities shall be located in a Wireless Communications Facility Overlay District.

7. Establishment Of Wireless F-seility Overlay Districts Communication

- e.a. Wireless Communication Facility Overlay Districts ("WCFOD") are herein established. The WCFOD shall be considered superimposed on the other districts depicted on the Planning Board Zoning Map, Town of Rockport (The Zoning Map) and described in Section II, Establishment of Districts, of this By LawBy-law. Any building, structure or use of land included in the WCFOD shall also be deemed to be within the particular underlying zoning district as shown on said Zoning Map and subject to all of the By LawBy-laws and regulations thereof, except where expressly modified by Section Jb.
- f.b. When authorized by a Special Permit issued by the Board of Appeals wireless communications facilities may be permitted in a WCFOD.
- g.c. The boundaries of the WCFOD shall be shown on a map entitled "Town of Rockport, Wireless Communication Facility Overlay District Map". The WCFOD Map is hereby made part of the Zoning By LawBy-law and incorporated herein.
- H.d. The following WCFOD districts are hereby created:

į.

- ñi (1) South End Water Storage Tank (standpipe) off Thatcher Road, Rockport Assessors Map 28, Lot 81.
- <u>mä (2)</u> Rockport Department of Public Works yard off upper Main Street, Rockport Assessors Map 13, Lot 1.
- ivii. (3) Off Johnson's Road, Rockport Assessors Map 4, Lot 10 and the adjacent unnumbered Lot.
- 5.8. Special Use-Permit Review. In addition to the requirements of Section XIV. Administration, C, 6, and 7, and Section VI. L. the Board shall consider the following objectives:
 - A wireless communication facility which includes a tower shall be considered only after a
 finding that existing or previously approved towers or other buildings or structures cannot
 accommodate the proposed user.
 - b. Application for an antenna proposed to be placed on an existing public or private nonresidential building or structure shall be subject to design review to ensure compatibility with the scenic character of the Town and the neighborhood. The Board shall consider the visual impact of the antenna from the abutting neighborhood and streets, noise generated by the facility, impact on the aesthetic character of the neighborhood and the proximity to residential dwellings.
 - c. The Board may impose such conditions on the Special-User Permit as they deem necessary to carry out the purpose of this section.

 Any grant or denial of an application shall be in writing and supported by substantial evidence contained in the record.

L. MARIJUANA ESTABLISHMENTS, THE FOLLOWING: (Added ATM 4-7-2018)

1. Medical Marijuana

- a. <u>a.</u> The regulations for the sale and use of marijuana medically prescribed are described in-MGL c.Chapter 55 (Act to Ensure the Safe Access to Marijuana), and c.Chapter 941 (Medical-Use-of-Marijuana) 935 CMR 500. Exceptions to these regulations for sale and use of marijuana in Rockport are provided in (b.) General Provisions, below.
- b. b. General Provisions
 - <u>-(1)</u> Medical Marijuana Treatment Centers (MMTC) are permitted by specialpermitSpecial Permit.
 - (2) The sale of medical marijuana will be permitted only in the Downtown zoning district.
 - iii. -(3) The sale of medical marijuana will be prohibited:
 - (a) Within 500 ft of a school public or private
 (b) Within 200 ft of a day-care center
 - iv. (4):The sale of medical marijuana will be permitted Monday Saturday, 10-6 pm and Sunday 12-5 pm. Any change is by agreement with the Planning Board.
 - v. (5) No signage associated with an MMTC may use medical symbols, images of marijuana, related paraphernalia, or colloquial references to cannabis and marijuana. In addition, no graphics related to marijuana or paraphernalia may be used on the exterior of the MMTC or the building in which the MMTC is located.
 - vi. (6) All windows in a MMTC must be screened so as to prevent view of plants, products, and paraphernalia.
 - vii (2) An MMTC must provide 24-hour security with remote electronic monitoring.
 - vii. (2) Unauthorized entry into an MMTC must be reported to the Rockport Police immediately upon detection.
 - ix. (2) The Planning Board is the Special Permit Granting Authority for medical marijuana.
 - x (10)-A non-refundable fee of \$500 prescribed by the Planning Board is to be submitted with the application to initiate the process for obtaining a Special Permit.

2. Non-Medical Marljunna (Voted Local Election 5-15-2018)

a. Consistent with G.L.MGL c.94G, s.§3(a)(2), all types of non-medical marijuana establishments as defined in G.L.MGL. c.94G, s.§1(j), to include marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Rockport.

ARTICLE M.

To see if the Town will vote to amend the Town's Zoning By-Laws as set forth on the immediately following pages, specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown as underlined and to approve the new Zoning Map included herein: (Planning Board) (2/3 vote required)

Remainder of this page intentionally blank

Article M Summary

The proposed changes in this amendment are to:

 Replace existing Water Supply Overlay District with new regulations and map for the purpose of streamlining and adding clarity

S.M. WATER SUPPLY PROTECTION OVERLAY DISTRICT

- 1. Purpose of District. The purpose of this Water Supply Protection Overlay District is to:
 - a. promote the health, safety, and general welfare of the Town of Rockport and the City of Gloucester by ensuring high quality and safe drinking water for the residents, institutions, and businesses through conserving the watershed areas of the town; and
 - b. preserve, regulate, and protect existing and potential sources of drinking water supplies through protecting the water table and water recharge areas.
- 2. Scope of Authority. The Water Supply Protection District (WSPOD) is an overlay district superimposed on the zoning districts, which operates in conjunction with other applicable local and state regulations. The WSPOD shall apply to all (a) new construction; (b) reconstruction or expansion of existing buildings; and (c) new or expanded uses in zones delineated for water supply protection. For the purposes of this section, Section I.B. of this By law exempting certain municipal uses from zoning does not apply. Applicable activities and uses in a portion of one of the underlying zoning districts that fall within the WSPOD must additionally comply with the requirements of this district. Uses prohibited in the underlying zoning districts shall not be pennitted in the WSPOD.
- 3. Por the purposes of this section, a Hazardous Material is defined as follows: Any substance or mixture-of physical, chemical, or infectious characteristics posing a significant actual or potential hazard to water-supplies or other hazards to human health were such substance or mixture released in the Town of Roetport. Hazardous materials include, without limitation; synthetic organic chemicals, petroleum-products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under Massachusetts General Laws (M.G.L.) Chapter(c.) 21C and 21E and 310 CMR 30.00.
- 4. Establishment and Delineation of WSPOD. The WSPOD established in this section consists of watersheds or recharge areas that are delineated on a map entitled "Zoning Map, Town of Rockport" that is dated August 2, 2001. This map is on file in the Office of the Town Clerk. The boundaries of the WSPOD do not necessarily coincide with property lines. In such instances, the regulations of this sectionshall apply only to that portion of a lot that lies within the WSPOD. State registered water sources are located in the following watersheds: Mill Brook (Mill Brook wells), Cape Pond (Cape Pond), and Carlson's Quarry). State permitted water sources are found in the Carlson's Quarry. Watershed (Flat Ledge Quarry).
- 5. Zonest The WSPOD consists of six zones (A. R. B. R. C. R. C. G. I., II), defined in 310 CMR 22.02 and the Rockport Zoning By-laws. These zones are drawn around surface and ground water supplies, both community water supplies (Rockport and Gloucester) and non-community water supplies as defined in 310 CMR 22.02.
- 6. Use Regulations.

- Within the Water Supply Protection Overlay District all of the requirements of the underlyingzoning districts continue to apply except that: Uses designated with an "NP" in the Water Supply Protection Table of Uses shall not bepermitted except as restricted; and Uses designated with an "SP" may only be permitted by special permit from the Board of Appeals, even if the underlying district requirements are more permissive. Uses designated with "P" shall be controlled by requirements of underlying zoning-For uses located in more than one zone, the most restrictive requirement shall apply: Except for uses related to the operation and maintenance of the Rockport public water supply asdefined in 310 CMR 22.00, no activities or uses are permitted within Zone I, as defined in Section-Uses allowed in the underlying zoning district but prohibited by the Water Supply Protection Table may be allowed by Board of Appeals special permit, if the Board of Appeals finds that the Applicant has demonstrated, on the basis of hydrogeologic evidence, that the proposed use or activity is located on property that should not have been included in Zone II, Zone A, Zone B R, or Zone C.R. of the Water Supply Protection District. Any application for said special permit shall be accompanied by documentation-prepared by a professional who meets the following two
 - i. Is experienced in delineating hydrogeologic zones or wetlands in Massachusetts; and
 - 11. Has one or more of the following credentials, with the credentials selected that is appropriate to the issues relating to the specific project:

<u>Title</u>
Registered Professional Hydrologist

Certified Professional Geologic-

Professional-Welland Scientist

Certified Groundwater Professional

Conferring Entity

American Institute of Professional Geologic Scientists: American Institute of Hydrology American Institute of Professional Geologic Scientists

Society of Welland Scientists

Association of Groundwater Scientists and Engineers-

The applicant shall provide information in substantial conformance with the criteria set forth in 310 CMR 22.00 and in the DEP's <u>Guidelines and Policies for Public Water Systems</u> for the delineation of Zones, as administered by the Massachusetts Department of Environmental Protection, to show that the proposed use or activity is not within the Water Supply Protection Overlay District. The Zoning Board of Appeals may engage a professional as defined above to review the application containing said hydrogeologic analysis and shall charge the applicant for the cost of the review.

Note: Stricken lines are to be deleted. Language to be added is underlined. Sections and numbers, including pages, are subject to change.

Water-Supply Protection District Table of Uses	Surface water Zone- A-R	Surface Water Zone- B-R,C- R, C-G	Groun dwater Zone- 11, 111
1) The creation, replacement, expansion or repair of- water bodies and dams, splash boards, and other water- control, supply and conservation devices, when used for- the purposes other than the Rockport public water supply	SP	Sb	p
2) The creation, replacement, expansion or repair of water bodies and dams, splash boards, and other water-control, supply and conservation devices, when used for the Rockport public water supply	Þ	Þ	\$P
3) — Drilling to a depth greater than 15 feet below existing- grade, not including drilling of monitoring wells by the Town of Rockport	SP	Þı	48
1) Replacement or repair of an existing sewage- treatment works subject to 314 CMR-3.00 or 310 CMR- 5.05(3) or 5.05 (13) that will not result in a design- eapacity-greater than the design capacity of the existing- treatment works.	Þ	p	p
5) Discharge from sewage treatment subject to 314 CMR 3.00 or 5.00, except as described in 3) above	414	SP	gp
6) Construction of a septic system subject to 310CMR 5.00-	加	S P	SP
Replacement or repair of an existing treatment or disposal works, as approved by DEP, subject to 314 CMR-5.00 for non-sanilary wastewater including industrial and commercial process wastewater, that will not result in anincrease in the design capacity of the existing treatment works.	Þ	p	р
Works 7) — Publicly-owned-treatment-works as approved by DDEP, subject to 314 CMR-5.00 for non-sanitary-wastewater including industrial and commercial process-wastewater.	₩	\$Þ	\$P
wastewater 8) Treatment or disposal-works, as approved by- DEP, subject to 314 CMR 5.00 for non-sanitary- vastewater including industrial and commercial process- wastewater, except as described in 3), 5), and 6) above- and 9 below.	ИÞ	\$P	414
Water Supply-Protection District Table of Uses	Surface water- Zone- A-R	Surface Water Zone- B-R ₁ C- R ₁ -C-G	Groun dwater Zone- H, III
9) Water remediation treatment works approved by DEP, designed and operated in accordance with 314 CMR 5.05(3) or 5.05 (13), for the treatment of contaminated ground or surface waters.	SP	\$P	SP

10) Hitching, standing, feeding and grazing of- livestock no closer than 100 feet from the edge of a surface water source or tributary with an established and- maintained vegetative buffer strip ² at least 100° wide- required.	p.	Þ	P
11) Construction of any building or structure or other impermeable surface lying within 100° of areas subject to-protection under the Massachusetts-Wellands Protection-Act, and the regulations adopted thereunder, as amended, and/or resource areas subject to protection under the Rockport Wellands By law as amended, excluding local-buffer zone resource area (lands-within 100° of any-welland), whichever is more restrictive.	₩₽	NР	414
12) — Any disturbance to matural vegetation or soils- lying within 50 feet from any area subject to protection- under the Massachusetts Wetlands Protection Act and the regulations adopted thereunder, as amended, and/or- resource areas subject to protection under the Rockport- Wetlands By law, as amended, excluding local buffer- zone resource area (lands within 100' of any wetland), whichever is more restrictive.	Ņ₽	ИP	44
13) — Residential development not connected to public- sewerage, unless the total of residential lot area and area- required for open space in excess of what is in zones- restricted by this by law is 40,000sf in the Carlson- Quarry, Mill Brook, South Brook, Squam Road Brook- watersheds East Brook, and Saw Mill Brook watersheds.	Ņ₽	Þ	P
14) Application of animal manure applied to the soil- as fortilizer, subject to Town of Rockport Board of Health- regulation, in accordance with the specifications of the Natural Resource Conservation Service Agricultural Waste Management Field Handbook, Appendix 13 ³	p	Þ	P
15) Storage of fertilizers (as defined in MGL Chapter 128, s.64), animal manure and/or stockpiling agricultural-wastes, unless such storage if enclosed within a structure designed to prevent the generation and escape of contaminated runoff and/or leachate, in which instance the storage is allowed by written approval of the Department of Public Works	МÞ	NP ·	414
Water-Supply-Protection District Table of Uses	Surface water- Zone- A-R	Surface Water Zone- B-R ₂ C- R ₂ C-G	Groun dwater Zone- II, III-
16) Wading or bathing, fishing, boating, using a scaplane, or other contrivance on, or entering on ice for any purpose or cause, or allowing an animal to go on any drinking water source approved or registered by the Commonwealth of Massachuselts, or owned by the Town of Rockport.	NP	Þ	Þ

17) Enlargement or alteration of existing uses that do not-	SP 43	\$p	\$P
conform to the Water Supply Protection District. A		MONTH.	11.010
special permit shall not be issued unless:			
n. Construction, use, or possible abandonment of			
project improves or does not affect quality of the			
water supply.			
b. In making its determination, the ZBA shall be			
guided by input from the Board of Health, the			
DPW Commissioners, Watershed Protection-			
Committee, and the Director of Department of			
Public Works for Rockport.			
c. The use is not prohibited by 310 CMR 22.21(2) or			
310 CMR 22.20G(2).			
18) The rendering impervious of more than 15% of any-	_SP _	SP-	SP
lot or parcel, or 2,500 square feet, whichever is greater,			
unless a system for artificial recharge is provided that will-			
not-degrade groundwater quality, in which case no more-			
than 20% of the lot or parcel shall be rendered			
impervious:		88	
19) Removal of soil, loam, sand, gravel, or any other	4lk	SP.	414
mineral substance within four (4) feet of historical high-			
groundwater table elevation as determined from			
monitoring wells, redoximorphio features, or historical-			
water table fluctuation data compiled by the United States			
Geological Survey, not including:			
a. Earth removal if substances removed are-			
permitted to be and are re-deposited within 45			
days of removal on site to achieve a final grading			
greater than 4 feet above the historical high-water-			
mark; or			
b. Execvations for building foundations, roads,			
utility works, or welland restoration.			
20) New sand, quarry, and gravel operations.	414	Sp	NP.
Oth A Gara declarate austam in industrial or	ДP	NP	ЧИ
21) Any new floor drainage system, in industrial or	111	#4M#0	
commercial process areas or hazardous material and/or-			
hazardous waste storage areas, which discharges to the- ground without a DEP permit or authorization.			

Water-Supply Protection District Table of Uses	Surface water Zone- A-R	Surface Water Zone- B-R ₇ C- R ₇ C-G	Groun dwater Zone- H, III-
22) Landfills receiving only wastewater and/or-soptage- residuals including those approved by the DEP pursuant- to-M.G.L.e. 21, §26 through §53; M.G.L.e. 111, §17; M.G.L.e. 83, §6 and §7, and regulations promulgated- thereunder; and other landfills and open dumps, as- defined in 310 CMR-19.006.	₩₽	МÞ	ф
23) Solid waste combustion or handling facilities.	村中	414	4l4
24) Storage and/or disposal of sludge and septage.	414	МP	- M b
25) Cesspool, privy, dry well, filter or other place- for reception, deposit or storage of human waste. Devices- for collection of sink waste. Composting of human waste- or other putrescible material.	NP	414	414
26) Automobile graveyards and junkyards, as defined in M.O.L.e. 140B, §1, and other salvage or junkyards.	柏	414	朸
27) On-site discharge or disposal of industrial waste.	МÞ	4M	4H
28) Facilities that generate, freat, store, or dispose of hazardous waste that are subject to M.G.L.c. 21C and 310-CMR 30.00, not including: a. Very small quantity generators of hazardous waste, as defined under 310 CMR 30.353; b. Household hazardous waste centers and events-	474	SP	SP
under 310 CMR 30.390; - Waste oil retention facilities required by M.G.L.			

- -Waste of Federation facilities required by Wi-O-E-e. 21, § 52A³; or Water remediation-treatment works approved by-DEP, designed and operated in accordance with-314 CMR-5.00, for the treatment of contaminated-ground or surface waters.

Water Supply Protection District Table of Uses	Surface water Zone A	Surface Water Zone- B-R, C- R, C-G	Groun dwater Zone- II, III-
30) Storage of liquid Inzardous materials or other leachable materials, as defined in M.G.L.c. 21E, liquid-petroleum products and/other leachable materials petroleum products and/other leachable materials nucless such storage is: a. Above ground level on an impervious surface, and b. The storage is incidental to: i. Normal household use, outdoor maintenance, or the heating, ventilation and/or air conditioning (HVAC) systems of a structure; ii. Use of emergency generators, provided that no more than 600 gallons is stored on site at any time; or iii. A response action conducted or performed in accordance with MGL c. 21E and 310 CMR-40.000 and which is exempt from a groundwater discharge permit pursuant to 314 CMR-5.05(14); and e. Either i. in container(s) or above ground tank(s) within a building, or; ii. outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater; in which instance such storage is allowed by written alignment.	YIP	SP.	S.P.
31) Use of fortilizers, herbicides, and pesticides approved by Federal and State agencies for nonresidential and nonagricultural uses provided that all necessary precautions shall be taken to prevent hazardousconcentrations in the water or the land resulting from the application.	SP.	\$P	S P
	414	MP	SP
32) Operation of dry cleaning facility.	44	SP_	SP
33) Commercial car washes and outdoor washing of commercial yehicles	141-		
	414	4Hb	SP

Water Supply Protection District Table of Uses	Surface water Zone A	Surface Water Zone- B-R, C- R, C-G	Groun dwater Zone- II, III
35) Petroleum, fuel oil and heating oil bulk stations and- terminals, not including liquefied petroleum gas,	414	枷	枡
36) Wholesale distribution and/or warehousing of- commercial packaged liquid petroleum products, including Class A, B, and C motor fluids.	₩₽	Þ	Þ
37) Bulk storage of deleing chemicals and sanding materials, unless such storage, including loading areas, is within a covered structure designed to prevent the generation and escape of contaminated runoff and/or leachate, in which instance the storage is allowed by written approval of the Department of Public Works.	AP	МÞ	₩₽
38) Stockpiling or disposal of snow and ice containing deleing chemicals, brought in from outside the zone.	414	Mb	414
39) Outdoor storage of fungicides, rodenticides, pesticides, herbicides.	—NP	—NP	—NP
40) Disposal of animal remains and operation of cemeteries (human and animal) and mausoleums.	414	Þ	Þ

1. Subject to obtaining permit from the Building Inspector.

²Vegetated buffer strips means either "Filter Strips" or "Field Borders" as defined in the MADEP Nonpoint-Source Management Manual (available in the office of the Department of Public Works), and shall be not lessthan 100 feet in width.

ARCS Handbook available in Planning Board Office, Town Hall.

³-The system of storm-water management and artificial recharge of precipitation shall be designed to prevent untreated discharges to wetland and surface water; preserve hydrologic conditions that closely resemble predevelopment conditions; reduce or prevent flooding by managing peak discharges and volumes of runoff; minimize crosion and sedimentation; not result in significant degradation of groundwater; reduce suspended solids and other pollutants to improve water quality; and provide increased protection of sensitive natural-

These standards may be met using the following or similar best management practices:

- (a) For single or two family residences, recharge shall be attained through site design that incorporates natural drainage patterns and vegetation to maintain pre-development stormwater patterns and water quality to the greatest extent possible. Stormwater runoff from rooftops, driveways and other impervious surfaces shall be routed through vegetated water quality swales, as sheet flow over lawnareas or to constructed stormwater wetlands, sand filters, infiltration systems, organic filters and/or similar systems.
- (a) For multi-family residential and non-residential uses, a stormwater management plan shall be developed which provides for the artificial recharge of precipitation to groundwater through site design that incorporates natural drainage patterns and vegetation and uses constructed (stormwater) wetlands, wet (detention) pends, water quality swales, sand filters, organic filters, infiltration-systems, or similar site appropriate best management-practices capable of removing nitrogen and other contaminants from stormwater, in compliance with the Stormwater Management Standards and technical guidance contained in the Massachusetts Department of Environmental Protection's 1997-Stormwater Management Handbook, Volumes I and 2. No runoff shall be discharged directly to rivers, streams, and other surface water bodies, wetlands or vernal pools.

Except when used for roof runoff from non-galvanized roofs, all such wetlands, ponds, swales or other infiltration facilities shall be preceded by oil, grease and sediment traps or other best-management practices to facilitate control of hazardous materials spills and removal of contamination and to avoid sedimentation of treatment and leaching facilities. All such artificial recharge systems chall be maintained in full working order by the owner(s) under the provisions of an operations and maintenance plan approved by the permitting authority to ensure that systems function as designed.

Infiltration systems greater than three (3) feet deep shall be lecated at least one hundred (100) feet from drinking water wells. Any infiltration basins or trenches shall be constructed with a three (3) foot minimum separation between the bottom of the structure and maximum groundwater elevation.

*These storage requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline provided the replacement is performed in accordance with applicable state and

7. Procedures for Issuance of Special Permit.

local requirements.

- a. Special Permit Granting Authority. The Rockport Zoning Board of Appeals (ZBA) shall be the special permit granting authority.
- b. Review by Other Boards and Officials. Upon receipt of the special permit application, the Zoning Board of Appeals shall transmit one copy each to the Board of Health, Water Commissioners, Conservation Commission, and the Department of Public Works, Watershed Protection Committee, and the Planning Board for their written recommendations. Board and Departments will have 35 calendar days to respond in writing to comment by said agency. The applicant chall furnish the necessary number of copies of the application.
- e. Criterin. The Zoning Board of Appeals may grant the required special permit only upon finding that the proposed use meets the criteria established in Section XI-C-7 of this by law, as well as the following criterion:
 - The proposed use shall in no way, during construction or thereafter, adversely affect the existingor-potential quality or quantity of water that is available in the Water Supply Protection Overlay-District; and further, the use shall be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be
- d. Regulations. The Zoning Board of Appeals may adopt regulations to govern design features of projects. Such regulations shall be consistent with subdivision regulations and Site Plan Review-By-law adopted by the Rockport Planning Board and the Town of Rockport.
- e.— Submittal Requirements. The applicant shall file six copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the Planning Board and be stamped by a prefessional engineer. All additional submittals shall be prepared by qualified professionals.

 The site plan and its attachments shall at a minimum include the following information where pertinent:
 - i. A complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentiallyhazardous materials to be used or stored on the premises in quantities greater than thoseassociated with normal household use; and
 - ii. For these activities using or storing such inzardous materials, a Hazardous Materials-Management Plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill-containment and clean upprocedures.

- 8. Monttoring. Periodic monitoring of existing on site groundwater monitoring wells and/or permission toinstall new wells on the applicant's property may be required by the Zoning Board of Appeals as a
 condition of the special permit, subject to the conditions of this by law. Such monitoring may include
 sampling of wastewater disposed to on site septle systems or cesspools, or to drywells, and sampling from
 groundwater monitoring wells to be located and constructed as specified in the special permit. Reports
 shall be submitted to the Planning Board and the Board of Health. The cost of complying with the
 requirements of this paragraph shall be borne by the applicant.
- 9. Violations and Enforcement. Written notice of any violation of this by law shall be given to the responsible person as soon as possible upon observation, detection, knowledge or proof that a violation has occurred. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirements or restriction violated and the nature of the violation, and may also identify the actions to remove or remedy the violations, preventive measures required for avoiding future violations, and a schedule of compliance. A copy of such notice shall be submitted to the Planning Board, Board of Health, the Conservation Commission, and the Department of Public Works.

 The cost of containment, cleanup or other action of compliance shall be borne by the assessed owner of the account.
- 10. Severability. A determination that any portion or provision of this Water Supply Protection OverlayDistrict Bylaw is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit issued previously thereunder.
- Effective Date: The provisions of this subsection VII, shall go into effect in accordance with the provisions of G.L. e.40, §5A and G.L. e.40, §32.

1. Statement of Purpose

Under the Massachusetts Drinking Water Regulations (310 CMR 22.00) municipal public water systems are required to protect drinking water sources from land uses and activities that have the potential to contaminate water supplies. Pursuant to the Massachusetts Department of Environmental Protection regulations, the Town of Rockport is required to adopt bylaws that comply with the Massachusetts Wellhead Protection Regulations [310 CMR 22.2[2]] and the Massachusetts Surface Water Supply Protection Regulations [310 CMR 22.2[02]]. "This Water Supply Protection Overlay District ("WSPOD") Bylaw complies with the requirements of these Regulations and promotes the health, safety, and general welfare of the Town by ensuring an adequate quality and quantity of drinking water for the Town. The Bylaw preserves and protects state permitted, delineated potential sources of drinking water. This bylaw provides for the conservation of nature resources in the Town and prevents temporary or permanent contamination of the environment.

2. Definitions

Automobile Grayeyard: An establishment that is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or motor vehicle parts as defined in MGL c.140B, s.1.

Aquifer: A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

CMR: Code of Massachusetts Regulations,

Commercial Fertilizer: Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed to have value in promoting plant growth, except un-manipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and

gypsum, and other products exempted by state regulations,

<u>Discharge: The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, pouring, or placing of toxic or hazardous material or hazardous waste upon or into any land or water such that it may enter the surface or ground waters.</u>

<u>Dry Well: A subsurface pit with open-jointed lining or holes through which storm-water drainage from roofs, basement floors, foundations or other areas seep into the surrounding soil.</u>

Hazardous Material: Any substance in any form which because of its quantity, concentration, or its chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with one or more substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. Hazardous material includes, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as toxic or hazardous under MGL e, 21E, This term shall not include hazardous waste or oil.

Estimated High Groundwater Tuble Elevation: Estimated high groundwater table elevation is determined through a variety of soil science methods as determined in accordance with MADEP regulations found in 310 CMR 15.101, 15.102 and 15.103.

Hazardous Waste: A substance or combination of substances, which because of quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health, sufety, or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. This term shall include all substances identified as hazardous pursuant to the Hazardous Waste Regulations, 310 CMR 30,000.

Impervious Surface: Material or structure on, above, or below the ground that does not allow precipitation or surface water runoff to penetrate into the soil.

Junkyard: An establishment that is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, as defined in MGL c, 140B, s. 1.

Landfill: A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to the Solid Waste Regulations, 310 CMR 19,006,

MassDEP: Massachusetts Department of Environmental Protection. MGL: Massachusetts General Law.

Non-Sanitary Wastewater: Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage including, but not limited to, activities specified in 310 CMR 15,004(6).

Open Dump: A facility operated or maintained in violation of the Resource Conservation and Recovery Act 42 U.S.C. 4004(a)(b), or state regulations and criteria for solid waste disposal.

Petroleum Product: Includes, but not limited to, fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline: lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.

Rockport Drinking Water Sources; Areas or aquifers which currently or could provide significant drinking water in the future.

Recharge Areas: Land areas, such as a Zone II, Zone B or delineated potential drinking water supply areas where precipitation and surface water infiltrates into the ground to replenish groundwater and aquifers used for public drinking water supplies.

Rockport Drinking Water Sources (Groundwater and Surface Water): As part of the Rockport water supply system, Rockport Drinking Water Sources means all land that has been identified as providing existing and future water source or land that provides water to existing permitted water supplies that is not mapped by the MA DEP.

Septage: The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. This term shall not include any material that is a hazardous waste, as defined by 310 CMR 30,000.

Studge: The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment including wastewater residuals. This term shall not include grit, screening, or grease and oil which are removed at the headworks of a facility

Treatment Works: Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal,

Utility Works: Regulated activities providing for public services, including roads, water, sewer, electricity, gas, telephone, transportation and their associated maintenance activities. This term shall include the installation of detention and retention basins for the purpose of controlling storm water.

Very Small Quantity Generator: Any public or private entity, other than residential, which produces less than twenty-seven (27) gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

Waste Oil Retention Facility: A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with MGL e.21, s.52A,6

Welland Resource Area: Any area subject to protection under the Massachusetts Wetlands Protection Act and the regulations adopted thereunder as amended, and/or wetland resource areas subject to protection under the Rockport Wellands By-Law, as amended, whichever is more restrictive.

3. Effect on Existing Zoning

The WSPOD overlays the underlying zoning but does not supersede the underlying zoning. If the underlying zoning is more restrictive of allowable uses than the WSPOD zoning, then the underlying zoning controls. If the WSPOD zoning is more restrictive of allowable uses than the underlying zoning, then the WSPOD zoning controls.

4. Zones within the WSPOD

There are numerous sub-zones within the Watershed Protection Overlay District that are delineated on the official zoning map on file with the Rockport Town Clerk. The WSPOD includes Zones 1, 2 and 3 for groundwater sources, Zones A,- B and C for surface water and Delineated potential water supply areas.

- a. ZONE I: The protective radius required around a public water supply well or wellfield within the Water Supply Protection Overlay District, For public water system wells with approved yields of 100,000 gpd or greater (Cape Pond Deep Rock Wells), the protective radius is 400 feet. Mill Brook wellfield, a tubular wellfield, requires a 250foot protective radius. (Added-ATM-04-03-40-)
- b. ZONE II (GROUND: That area of an aquifer within the Water Supply Protection Overlay.
 District that contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at approved yield, with no recharge from precipitation). It is bounded by the groundwater divides that result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries, In all cases, Zone II shall extend up gradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary). The Zone II must include the entire Zone I area, (Added ATM 04-03-10.)
- c. ZONE III (GROUND WATER): That land area within the Water Supply Protection Overlay
 District beyond the area of Zone II from which surface water and groundwater drain into Zone II.
 The surface drainage area as determined by topography is commonly coincident with the
 groundwater drainage area and will be used to delineate Zone III. In some locations, where
 surface and groundwater drainage is not coincident. Zone III shall consist of both the surface
 drainage and the groundwater drainage areas. (Added ATM-04-03-10.)
- d. ZONE A (SURFACE WATER): As part of the Rockport water supply system within the Water Supply Protection Overlay District. (a) the land area between a surface water source and the upper boundary of the bank; (b) the land area within a 400 foot lateral distance from the upper boundary of the bank of a Class A surface water source as defined in 314 CMR 4.05(3)(a), or any other surface water source within the Watershed Protection Overlay District; and (c) the land area within a 200 foot lateral distance from the upper boundary of the bank of a tributary or associated surface water body of a surface water supply; provided that the upper boundary of the banks of reservoirs and tributaries thereto are defined as the landward edges of any associated Bordering. Vegetated Wetlands ("BVW) or, where BVW is not present, as the top of bank of reservoirs and tributaries thereto Delineation of BVW and of "top of bank" shall be in accordance with current guidance published by the Massachusetts Department of Environmental Protection or its successor agency. (Added ATM 04-03-10.)
- e. ZONE B (SURFACE WATER): As part of the Rockport water supply system within the Water Supply Protection Overlay District, the land area within Y2 mile of the upper boundary of the bank of a Class A surface water source, as defined in 314 CMR 4.05(3)(a), or edge of watershed, whichever is less; provided, that the upper boundary of the banks of reservoirs are defined as the landward edges of any associated Bordering Vegetated Wetlands ("BVW") or, where BVW is not present, as the upper boundary of the bank of reservoirs, exclusive of the area included in the defined Zone A-R. However, Zone B shall always include the land area within a 400-foot lateral distance from the upper boundary of the bank of the Class A surface water source, (Added-ATM-04-03-10.)
- f. ZONE C (SURFACE WATER): As part of the Rockport and Gloucester water supply system.

 Zone C means the land area not designated as Zone A-R or B-R within the watershed of a Class
 A surface water source as defined at 314 CMR 4.05(3Xn). (Added ATM-04-03-10.)

5. Overlapping Zones.

Zone II, III A, B, C and mapped Potential Drinking Water Sources may overlap one another where a groundwater well is located near a surface water supply. In such overlapping zones, a use is prohibited if it is prohibited in either Zone II, III A, B, C and Potential Drinking Water Sources.

6. Parcels Partially within the WSPOD

Where the WSPOD divides a lot or parcel, the requirements established by the WSPOD shall apply to the entire lot or parcel.

7. Extended "No-Build" and "No Disturb" Welland Zones

Within any sub-zone within the WSPOD, there shall exist a "No Build" Zone that is 100 feet measured horizontally landward of a Wetland Resource Area and a "No-Disturb" Zone that is 50 feet measured horizontally landward of a Wetland Resource Area,

8. Prohibited Activities and Uses within Zone II and Rockport Drinking Water Sources

The following activities and uses are prohibited in Zone II:

- a. landfills and open dumps, as defined in the Definitions section of 310 CMR 19.006;
- b. landfills receiving only wastewater residuals and/or septage (wastewater residuals monofils") approved by the DEP pursuant to M.G.L. c. 21, § 26 through 53; M.G.L. c. 111, § 17, M.G.L. c. 83, §§ 6 and 7, and any regulations promulgated thereunder;
- nutomobile graveyards and junkyard, as defined in M.G.L. c, 140B, § 1;
- d. stockpiling and disposal of snow or ice removed from highways and streets located outside of
 Zone II that contains sodium chloride, chemically treated abrasiyes or other chemicals used for
 snow and ice removal;
- e. petroleum, fuel oil and heating oil bulk stations and terminals including but not limited to those listed under Standard Industrial Classification (SIC) Codes 5171 (no including liquefied petroleum gas) and 5983. SIC Codes are established by the U.S. Office of Management and Budget and may be determined by referring to the publication. Standard Industrial Classification Manual;
- f. treatment or disposal works subject to 314 CMR 5.00. Ground Water Discharge Permit Program for wastewater other than sanitary sewage. This prohibition includes but is not limited to treatment or disposal works related to activities under the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6) (Title 5), except the following:
 - in the replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s); and
 - ii treatment works approved by the Department designed for the treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05(3) or (13); and
 - ini publicly owned treatment works, or POTWs .

n-g, facilities that generate, treat, store or dispose of hazardous waste that are subject to M.G.L. c.

21C and 310 CMR 30,000; Hazardous Waste, except for the following;

- L very small quantity generators, as defined by 310 CMR 30,00: Hazardous Waste;
- ii household huzardous waste collection centers or events operated pursuant to 310,390.

 Special Provisions for Accumulation of Household Huzardous Waste And/or Huzardous
 Waste Generated by Very Small Quantity Generators:
- iii. waste oil retention facilities required by M.G.L. c. 21, § 52A; and
- iiiwtreatment works approved by the Department designed in accordance with 314 CMR 5.00.

 Ground Water Discharge Permit Program for the treatment of contaminated ground or surface waters.
- b.h. any floor drainage systems in existing facilities, in industrial or commercial hazardous material and/or hazardous waste process areas or storage areas, which discharge to the ground without a DEP permit or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the state plumbing code, 248 CMR 10.00; Uniform State Plumbing Code), connect the drain to a municipal sewer system (with all appropriate permits and pre-treatment), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies.
- 2-9. Prohibited activities and uses within Zone Π and Rockport Drinking Water Source Zones subject to performance standards.

The following uses and activities within Zone II are prohibited unless designed in accordance with the performance standards specified below.

- a. storage of sludge and septage, as defined in 310 CMR 32.05, Definitions, unless such storage is in compliance with 310 CMR 32.30, Requirements for Any Storage of Studge or Septage and 32.31, Additional Requirements for Long-term Storage of Studge or Septage;
- b, storage of sodium chloride, chemically treated abrasives or other chemicals used for the remoyal of ice and snow on roads, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- c. storage of commercial fertilizers, as defined in M.G.L. c. 128 § 64, unless such storage is Within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- ed. storage of animal manures, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff and leachate;
- c, storage of liquid hazardous materials, as defined in M.G.L. c. 21E, and/or liquid petroleum products unless such storage is:
 - i above ground level
 - L on an impervious surface; and either
 - ii in container(s) or above-ground tank(s) within a building; or

- ii. outdoors in covered container(s) or above-ground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater; however, these storage requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline provided the replacement is performed in a manner consistent with state and local requirements.
- b-f. the removal of soil. loam, sand, gravel or any other mineral substances within four feet of the historical high groundwater table elevation (as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey), unless the substances removed are redeposited with 45 days of removal on site to achieve a final grading greater than four feet above the historical high water mark, and except for exervations for the construction of building foundations or the installation of utility works, or wetland restoration work—conducted in accordance with a valid Order of Conditions issued pursuant to M.G.L. c. 1318 40; and
- e.g. land uses that result in the rendering impervious of more than 15% or 2500 square feet of may lot or parcel, whichever is greater, unless a system for artificial recharge of precipitation is provided that will not result in the degradation of groundwater quality.

3.10. Prohibited Activities and Uses within Zone A and Potential Water Supply Zone

The following activities and uses are prohibited in Zone A:

- a. Underground stomge tanks;
- Aboye-ground storage of liquid hazardous materials as defined in MGL e. 21E or liquid propane or liquid petroleum products, except as follows;
 - i The storage is incidental to normal household use, maintenance, or the heating of a structure;
 - i The storage is incidental to the use of emergency generators;
 - <u>ii</u> The storage is incidental to a response action conducted or performed in accordance with M.G.L. c. 21E and 310 40.000, Massachusetts Contingency Plan, and which is exempt from a ground water discharge permit pursuant to 314 CMR 5.05(14);
 - jii The storage is either in container(s) or aboye-ground storage tank(s) within a building or outdoors in covered containers or aboye ground tanks. This containment system shall be designed and operated to hold either 10 percent or the total possible storage capacity of all containers or 110 percent of the largest container's storage capacity, whichever is greater. The storage requirements in this subparagraph do not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline provided the replacement is performed in accordance with applicable state and local requirements.
- c. Treatment or disposal works subject to 314 CMR 3.00 Surface Water Discharge Permit Program, or 5.00, Ground Water Discharge Permit Program, except the following:
 - The replacement or repair of an existing treatment or disposal works that will not result in a design capacity greater than the design capacity of the existing treatment or disposal works;

- ii Treatment or disposal works for sanitary sewage if necessary to treat existing sanitary sewage discharges in non-compliance with 310 CMR 15.000: The State Environmental Code. Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage, provided the facility owner demonstrates to the Department's satisfaction that there are no feasible siting locations outside of the Zone A. Any such facility shall be permitted in accordance with 314 CMR 5.00: Ground Water Discharge Permit Program and shall be required to disinfect the effluent. The Department may also require the facility to provide a higher level of treatment prior to discharge;
- jii. Treatment works approved by the Department designed for the treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05(3) or (13);
- iv. Discharge by public water system of waters incidental to water treatment processes.
- b. All on-site subsurface sewage disposal systems, as defined in 310 CMR 15.000; The State

 Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection,

 Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport

 and Disposal of Septage, within Zones A, B, and C, shall be in compliance with the requirements of
 310 CMR 15.000.
- c. Within the Zone A of all surface water supplies and tributaries as defined in 310 CMR 22.02, all sewer lines and appurtenances are prohibited, except us required to eliminate existing or potential pollution to the water supply, or where the crossing of tributaries is necessary to construct a public sewer system. Where the exception is met, watertight construction of sewer lines and manholes shall be used.
- d. Within 1,000 feet of surface water supplies and tributaries, all pumping stations shall have standby power and high water alarms telemetered to an appropriate location that is manned at all times. An emergency contingency plan must be developed by the owner of the wastewater treatment facility and submitted to the Department for approval.
- Beyond 1.000 feet, and within the watershed of surface water supplies, the Department may in specific circumstances, after review, require additional controls when deemed necessary for protection of public health.
- f. No stabling, hitching, standing, feeding or grazing of livestock or other domestic animals shall be located, constructed, or maintained within 100 feet of the bank of a surface water source or tributary thereto. Owners and operators of agricultural operations should consult the Massachusetts. Department of Agricultural Resources On-farm Strategies to Protect Water Quality An Assessment & Planning Tool for Dest Management Practices (December 1996) for information about technical and financial assistance programs related to erosion and sediment control and nutrient, pest, pesticide, manure, waste, grazing, and irrigation management.
- g. No burial shall be made, except by permission in writing by the Board of Water Commissioners or like body having jurisdiction over such source of supply, in any cemetery or other place within 100 feet of the high-water mark of a source of public water supply or tributary thereto. No lands not under the control of cemetery authorities and used for cemetery purposes, from which lands the natural drainage flows into said source of water supply or tributary thereto, shall be taken or used for

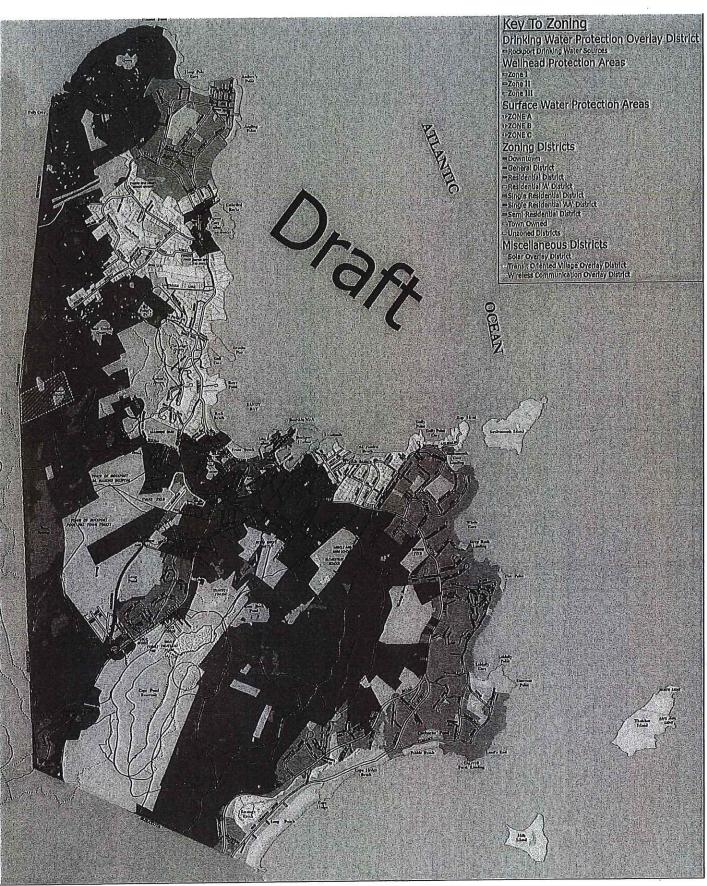
- cemetery purposes until a plan and sufficient description of the lands is presented to the Department and until such taking or use is expressly approved in writing by the Department.
- f.h. No person, without written permission from the Department of Public Works, shall use any public water source for recreational purposes. Violations of this provision shall be subject to a civil fine of up to \$300. Nothing in this subsection shall prohibit the Department of Public Works or its agents from engaging in the maintenance or improvement of a public surface water supply.
- 4-11. In addition to those used prohibited in Section 10 above, the siting of the following new land uses within Zone A are prohibited:
 - a. <u>fivelities that, through their acts or processes, generate, treat, store or dispose of hazardous waste that are subject to M.G.L. c. 21C and 310 CMR 30,000; Hazardous Waste, except for the following:</u>
 - i very small quantity generators, as defined by 310 CMR 30,000: Hazardous Waste;
 - ii treatment works approved by the Department designed in accordance with 14 CMR 5:00; Ground Water Discharge Permit Program for the treatment of contaminated ground or surface waters;
 - iii sand and gravel excavation operations;
 - iv. uncovered or uncontained storage of fertilizers;
 - y, uncovered or uncontained storage of road or parking lot deicing and sanding materials:
 - vi. storage or disposal of snow or ice, removed from highways and streets outside the Zone
 A, that contains deicing chemicals,
 - vii. uncovered or uncontained storage of manure.
 - vii junk and salvage operations,
 - ix motor vehicle repair operations.
 - x. cemeteries (human and animal) and mausoleums,
 - solid waste combustion facilities or handling facilities as defined at 310 CMR 16:00;
 Site Assignment Regulations for Solid Waste Facilities.
 - xii. land uses that result in the rendering impervious of more than 15%, or more than 20% with artificial recharge, or 2500 square feet of any lot, whichever is greater; and
 - nii conunercial outdoor washing of vehicles, commercial car washes.
 - 12. Modifications to the WSPOD Boundaries
 - The boundaries of the zones within the WSPOD shall not be changed unless:
 - a. <u>Prior to the proposed change, the DEP reviews and approves of the proposed change of the boundaries; and</u>
 - b. The boundary change is approved at Town Meeting.
 - 13. Enforcement

The provisions of the WSPOD shall be enforced by the Building Inspector of the Town of Rockport. All remedies and penalties available for enforcement of the Zoning Bylaws shall be applicable to the enforcement of the WSPOD.

14. District Boundary Disputes

Changes to the Water Supply Protection Overlay District require town meeting approval,

*1 (added ATM 4/9/2012)





This map was created by Rockport GIS,
The information is provided as a
reasonably accurate point of reference,
but is not intended to represent
authoritative location, and is not to be
used for conveyances. The Town of
Rockport shall not be held responsible for
the accuracy or misuse of these data.



Planning Board

Zoning Map

revised 12/15/2022

The zoning lines are approximate. Please refer to documents on file with the Rockport Assessors Office or the South Essex Registry of Deeds for the exact localour of boundaries. Surface Water Protection Areas is a MassGis layer. The Water Supply Protection Overlay District Zones of Protection are defined in 310 CMR 22.02 and the Rockport Zoning By-Laws.

ARTICLE N.

To see if the Town will vote to amend the Town's Zoning By-Laws as set forth on the immediately following pages, specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown as underlined: (*Planning Board*) (2/3 vote required)

Remainder of this page intentionally blank

Article N Summary

The proposed changes in this amendment are to:

- · Remove provision allowing development by Special Permit in certain circumstances
- · Make minor copy edits for clarity and for consistency throughout the By-law

IX. COASTAL FLOOD PLAIN DISTRICT

A. PURPOSES

The purposes of this district are:

- To provide that land in the Town of Rockport subject to seasonal or periodic flooding as
 described hereinafter shall not be used in such a manner as to endanger the health or
 safety of the occupants thereof, or of the public generally, or as to burden the public with
 cost resulting from unwise individual choices of land use.
- To assure the continuation of the natural flow pattern of the of the water courses within the Town and to minimize the impact of coastal storms in order to protect persons and property against the hazards of flood inundation.

B. DISTRICT DELINEATIONS:

- 1. The Coastal Flood Plain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Rockport designated as Zone AE, AO, or VE on the Essex County Flood Insurance Rate Map ("FIRM" or "Map") issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Essex County FIRM that are wholly or partially within the Town of Rockport are panel numbers 25009C0309G, 25009C0317G, 25009C0319G, 25009C0328G, 25009C0336G, 25009C0337G, 25009C0339G, 25009C0339G, 25009C030G dated July 16, 2014 or whatever is most current. The exact boundaries of the District are defined by the 100-year base flood elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study (FIS) report dated July 16, 2014 or whatever is most current. The FIRM and Flood Insurance Study report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector and Conservation Commission.
- 2. Notwithstanding the foregoing, areas determined by the Federal Insurance Administration to be out of the Flood Plain District or areas determined by the Building Inspector in accordance with the following subsection 3 to be not in fact at or below Base Flood Elevation as shown on the "Map" shall be exempt from the Flood Plain District regulations.
- 3. In order that the Building Inspector may determine that the above mentioned conditions are met, for new construction of buildings, substantial improvements to or relocation of existing buildings, a site plan at a scale of 1"=10' prepared by a registered land surveyor or registered professional civil engineer, shall be submitted in quadruplicate to the Building Inspector by the applicant.

The site plan shall show at least the following:

- n. The locations, boundaries, and dimensions of each lot.
- b. Two foot contours of the existing and proposed land structure.
- c. Location of existing and proposed structures, watercourses and drainage easements, means of access, drainage, and sewer disposal facilities.
- d. The area and location of existing or proposed leaching fields, if any.
- e. Show base flood elevation for the 100 year flood plain level as identified on the Flood Insurance Rate Map (FIRM) for Essex County.

The Building Inspector shall, within five days after receipt of said site plan, transmit one copy of said plan to the Planning Board, Board of Health and Conservation Commission. Said boards and commissions may, at their discretion, investigate the case and report in writing their recommendation to the Building Inspector. The Building Inspector shall not take final action on such plans until it has received a report thereon from said boards and commissions, or until said boards and commissions have allowed thirty (30) days to elapse after receipt of such plan without a submission or report

C. USE REGULATIONS

- 1. The Coastal Flood Plain District shall be considered as overlying all other districts.
- 2. In the Coastal Flood Plain District land and structures thereon may be used in accordance with the provisions of this section for any purposes otherwise allowed for the underlying district in which such land or structure is situated.
- 3. In the Floodplain District no new construction of buildings, nor substantial improvements to or relocation of existing buildings shall be undertaken except as provided in the following Subsection 7 hereof. "Substantial improvements" as used in this Section IX is any repair, reconstruction or improvement of a main structure on the property, the cost of which equals or exceeds 50% of the actual cash value of the structure either before the improvement is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition substantial improvements are considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either:
 - a. Any alteration to comply with existing state or local health sanitary building or safety codes or regulations or;
 - b. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.
- 4. The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged allowed, provided they are permitted in the underlying district and they do not require structures, fill or storage of materials or equipment.
 - n. Public rights of way may be filled for the purpose of maintenance or improvements

of an existing roadway or right of way.

- b. When public buildings and structures belonging to the Town of Rockport are to be improved or rebuilt, fill may be utilized to the extent allowed by the safety standards set by the Federal Insurance Administration.
- c. Outdoor recreation, including play areas, nature study, boating, fishing and golf courses where otherwise legally permitted.
- d. Foot, bicycle, and/or horse paths and bridges, provided such uses do not affect the natural flow pattern of any water course.
- e. Uses such as farming, gardening, bathing beaches or picnic areas.
- <u>f.</u> Boat docks and launching ramps, subject to the approval of state and/or federal agencies, if required.
- g. Construction of a public roadway approved by Town Meeting vote.
- h. Wildlife management areas and conservation of water, plants and wildlife.
- i_Garages within the "A" zone as shown on the Map and driveways accessory to dwellings.
- j_Any repair, reconstruction or improvements to buildings lawfully existing prior to the adoption of these provisions, which repair, reconstruction or improvements do not constitute substantial improvements as defined herein.

D. DEVELOPMENT REGULATIONS

- 1. Compliance with State Regulations (amended ATM 4/9/2012)—All development in the district including structural and nonstructural activities whether permitted by right or by Special Permit must be incompliance with the following regulations as may be amended from time to time:
 - Sections of the Massachusetts Building Code (780 CMR) which address flood plain and coastal high hazard areas
 - Wetlands Protection Regulations, Department of Environment Protection (DEP) (currently 310 CMR 10.00)
 - c. Inland Wetland Restriction, DEP (currently 310 CMR 13.00)
 - d. Constal Wetland Restriction, DEP (currently 310 CMR 12.00)
 - e. Minimum requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5)
 - f_All development, including structural and nonstructural activities, whether permitted by right or by Special Permit must be in compliance with M.G.L. Chapter 131 Section 40.

Any variances from the provisions of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations and 44CFR 60.6.

E. OTHER USE REGULATIONS (nmendedATM 4/9/2021)

- Within zone AO on the FIRM, require adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.
- 2. Prohibit man-made alteration of sand dunes within Zone VB.
- 3. Provide that all new construction within Zone VE be located landward of the reach of the highest annual tide, and landward on the reach of the highest annual time, and landward of any coastal banks.
- 4. Review all subdivision proposals to assure that: a) such proposals minimize flood damage; b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and c) adequate drainage is provided to reduce exposure to flood hazards.

BOARD OF APPEALS

14. The Beard of Appeals may grant a special permit for new construction or substantialimprovements, provided that the proposed structure shall be creeted on a lot of one half acre or less and surrounded on all sides by the lots improved with pre-existing structures that are below the Base Flood Elevationl-The ZBA shall apply the variance standard set forth in 44 CFR 606 when determining such a Special Permit.

ARTICLE O.

To see if the Town will vote to amend the Town's Zoning By-Laws as set forth on the immediately following pages, specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown as underlined: (Planning Board) (2/3 vote required)

Remainder of this page intentionally blank

Article O Summary

The proposed changes in this amendment are to:

- · Consolidate definitions into the Definitions section
- · Make minor copy edits for clarity and for consistency throughout the By-law

XI. LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION

A. PURPOSE

The purpose of this section is to promote the creation of new large-scale ground-mounted solar photovoltaic installations ("LSGMSPVI") (250 kW or greater) by establishing standards for the placement, design, construction, operation, monitoring, modification, repair, and removal of such installations to ensure public safety, minimize impacts on scenic, natural and historic resources, and provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the placement, design, construction, operation, monitoring, modification and/or repair and removal of large-scale ground-mounted solar photovoltaic installations.

B. APPLICABILITY

This section applies to the initial construction of LSGMSPVIs and to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

Smaller scale building mounted solar or photovoltaic installation which are accessory to a lawful principal use on the same lot are not otherwise subject to the requirement of this section but must comply with the other provisions of the Zoning By-LawBy-law as applicable.

e. DEFINITIONS
d-
e. Large Scale Ground Mounted Solar Photovoltaie Installation (LSGMSPVI): A solar photovoltaic system that is structurally mounted on the ground, not roof mounted, and has a minimum nameplate capacity of 250 kW DC.
£
g.—On-Site-Solar Photovoltale Installation: A solar photovoltale installation that is constructed at a location-where other uses of the underlying property occur.
h . −
I.—Rated Nameplate Capacity: The maximum rated output of Direct Current (DC) electric power-production of the photovoltaic system.
ــ

Site Plan Review Review by the Planning Board to determine conformance with the Zoning By Law, as provided in Section X of the By Law.

REQUIREMENTS FOR ALL L-LARGE-SCALE C. GENERAL REQUIREMENTS -GROUND MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

The following requirements are common to all LSGMSPVIs to be sited in designated locations.

1. Compliance with Laws, Ordinances and Regulations.

The construction and operation of all LSGMSPVIs shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, environmental, Wetlands Protection Act, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the state Building Code.

2. Building Permit and Building Inspection.

No LSGMSPVI shall be constructed, installed or modified as provided in this section without first obtaining a building -permit.

The application for a building permit for a LSGMSPVI must be accompanied by the fee required for a building permit.

il. 4. Site Plan Review,

Any LSGMSPVI shall undergo site plan review by the Planning Board prior to construction, installation or modification as provided in this section. LSGMSPVIs shall be constructed, installed, used and modified in conformity with a site plan approved by the Planning Board in accordance with Section XIII Site Plan Review — of the Zoning By-LawBy-law and the further requirements set forth herein. The Planning Board shall review and act upon the site plan review of an LSGMSPVI within 90 days of its receipt of an application determined to be complete. The requirements set forth herein shall be applied coincident with and in addition to those requirements set forth in Section XIII. The requirements of this section shall take precedence in the event of a direct conflict.

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.

b. Required Documents.

Pursuant to the site plan review process, the project proponent shall provide the following documents:

- A site plan showing:
- (n) Property lines and physical features, including roads, for the project site;
- (b) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation and structures;
- (c) Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;

- (d) One or three line electrical diagrams detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices;
- (e) Documentation of the major system components to be used, including the PV panels, mounting systems, and inverters;
- (1) Name, address, and contact information for proposed system installer;
- (a) Name, address, phone number and signature of the project proponent, as well as all coproponents or property owners, if any;
- (h) Name, contact information and signature of any agents representing the project proponent; and,
- (i) A description of how land clearing and construction shall be performed in accordance with the appropriate sections of the Zoning By-LawBy-law governing storm water discharge, land disturbance, provisions for handling toxic or hazardous materials, and post-construction storm
- iii Documentation of actual or prospective access and control of the project site (see Section D.eX.C.6);
- nii An operation and maintenance plan (see Section D.fX.C.7);
- Hiv. Zoning district designation for the parcel of land comprising the project site (submission of a copy of a zoning map with the parcel identified is suitable for this purpose);
- ing. Proof of liability insurance written by companies licensed to provide such insurance in Massachusetts and with coverage limits at commercially acceptable levels;
- 4:11 Description of financial surety that satisfies Section D.m.iiH.C.14. The project proponents shall submit a fully inclusive estimate of the costs associated with removal of the proposed facility prepared by a licensed engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.
- મં<u>માં</u> A public outreach plan, including a project development timeline, which indicates how the project proponent will meet the required site plan review notification procedures and otherwise inform abutters and the community.

The Planning Board may require additional information, data or evidence as it deems necessary pursuant to the Site Plan Review process, or may waive documentation requirements as it deems appropriate.

5. Professional Review.

The Planning Board may engage, at the applicant's expense, professional and technical consultants, including legal counsel, to assist the Planning Board with its review of the application in accordance with the requirements of MGL c.44, s.53GSection 53G of Chapter 44 of the Massnehusetts General-Laws. The Planning Board may direct the applicant to deposit funds with the Planning Board at the time the application is accepted, and to add additional funds as needed upon notice. Failure to comply with this section shall be grounds for denying the application. Upon approval of the application, any excess amount in the account attributable to that project, including any accrued interest, shall be repaid to the applicant.

6. Site Control,

The project proponent shall submit documentation of actual or prospective access and control of the

project site sufficient to allow for construction and operation of the proposed LSGMSPVI.

7. Operation & Maintenance Plan.
The project proponent shall submit a plan for the operation and maintenance of the LSGMSPVI, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

8. Utility Notification. No LSGMSPVI shall be constructed until evidence has been given to the Building Inspector that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this- requirement.

9. Dimension and Density Requirements

n. Setbacks.

An LSGMSPVI shall be set back from property lines consistent with the applicable regulations for the underlying zoning district, with the exception of necessary interconnections with utility transmission or distribution facilities.

b. Appurtenant or Accessory Structures.

All appurtenant or accessory structures to a LSGMSPVI shall be subject to the requirements of the Zoning By-Law Concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other, and shall be landscaped and screened from view by vegetation, located underground, or behind berms, and/or clustered to minimize visual impacts.

10. Design Standards

n. Lighting. Lighting of LSGMSPVIs shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the LSGMSPVI shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

b. Signage. Signs on LSGMSPVIs shall comply with requirements of all applicable sign regulations and shall be limited to:

- Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger.
- Educational signs providing information about the LSGMSPVI and the benefits of renewable energy. LSGMSPVIs shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic -installation.

c. Utility Connections. Reasonable efforts, as determined by the Planning Board, shall be made to place all utility

connections from the LSGMSPVI underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

d. Screening.

buffer or green strip planted with live shrubs or trees, predominantly evergreen, shall if feasible be maintained between the perimeter of the LSGMSPVI and any abutting property line or street unless the existing natural growth is adequate to provide an equivalent buffer. Such a buffer shall be designed so as not to create a hazard upon entrance or exit from the facility. The Planning Board may vary or waive this requirement consistent with minimizing negative effects on abutting

11. Safety and Environmental Standards

n. Emergency Services.
The LSGMSPVI owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Department. Upon request the owner and/or operator shall cooperate with Town emergency services in developing an emergency response plan, which may include ensuring that emergency personnel have 24-hour access to the facility. All means of shutting down the LSGMSPVI shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the LSGMSPVI.

h. Land Clearing.
Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the LSGMSPVI or otherwise prescribed by applicable laws, regulations, and bylawBy-laws.

Significant tree cutting is strongly discouraged. Should tree cutting be required the applicant should offset the loss of trees by planting an equivalent number of trees of similar species of (size and caliper) on-site or on an area specified by the Planning Board.

c. Drainage and Groundwater Protection.

A LSGMSPVI shall comply with any drainage and groundwater requirements set forth in the Zoning By-LawBy-law, which requirements shall be imposed and conditioned as appropriate through the Site Plan Review process.

12. Monitoring and Maintenance

n. Solar Photovoltaic Installation Conditions.

The LSGMSPVI owner and/or operator shall maintain the facility in good and safe working condition, and shall schedule inspection by a competent professional at least once every twelve(12) months or more often, pursuant to industry standards and practices. The results of the inspection and any resulting repair work shall be submitted to the Planning Board and the Building Inspector within thirty (30) days of receipt by the owner and/or operator. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Department and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the LSGMSPVI and any access road(s), unless accepted as a public way.

b. Modifications.

All material modifications to a LSGMSPVI, after issuance of the required building permit, shall require further Site Plan Review by the Planning Board.

c. Contact.
The owner and/or operator of a LSGMSPVI shall identify a responsible person for emergency purposes and public inquiry and shall at all times throughout the life of the of the installation maintain current contact information (name, address, telephone number and e-mail address) for such person(s) on file with the Building Inspector, the Fire Department, and the Planning Board

13. Insurance.

Prior to commencing operation, the owner or operator of a LSGMSPVI shall provide the Town Clerk with a certificate of insurance showing that the property has a minimum of one million dollars (\$1,000,000) in liability coverage by occurrence in the aggregate or five million dollars (\$5,000,000) general liability insurance, and that the Town is an additional named insured thereon. Such certificate shall be supplied on an annual basis to the Town upon the renewal of said insurance policy.

14. Discontinuance or Decommissioning

a. Removal Requirements.

Any LSGMSPVI or substantial part thereof not in operation for a period of one hundred eighty (180) continuous days or more without written permission from the Planning Board or that has reached the end of its useful life shall be considered discontinued and shall be removed. Upon written request from the Building Inspector, addressed to the contact address provided and maintained by the owner and/or operator as required above, the owner/and or operator shall provide evidence to the Building Inspector demonstrating continued use of a LSGMSPVI. Failure to provide evidence within thirty (30) days of such written request shall be conclusive evidence that the installation has been discontinued. The owner and/or of the installation shall notify the Planning Board and Building Inspector by certified mail of the proposed date of discontinued operations and plans for removal.

The owner or operator shall physically remove the installation no more than 150 days after the notification date of discontinued operations. Decommissioning shall consist of:

- i Removal from the site of the LSGMSPVI in its entirety, including all associated structures, equipment, security barriers and transmission/distribution lines.
- Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations
- iii Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner and/or operator to leave landscaping or designated below grade foundations in order to minimize erosion and disruption to vegetation.
- iv. Reinstatement of gravel or ground cover consistent with the surrounding landscape.
- Removal of all above ground foundations and supports to a depth of one foot below existing grade.

If the owner and/or operator of the LSGMSPVI fails to remove the installation in accordance with the requirements of this section, the Town shall have the right, to the extent it is otherwise duly authorized by law, to enter the property and remove the installation at the expense of the owner

and/or operator of the installation and the owners of the site on which the facility is located.

15. Financial Surety.
The owner of a LSGMSPVI approved in accordance with this By LawBy-law shall provide to the Town, acting through the Planning Board, a form of surety to cover the cost of removal in the event the Town must remove the LSGMSPVI and remediate the landscape. Such surety shall be in an amount and form determined to be reasonable by the Planning Board, which may be an escrow account, bond, or otherwise, and shall be provided prior to construction. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation. Such surely shall remain in force for so long as the project is in existence, and the owner shall annually provide the Planning Board and Building Inspector with proof that the surely continues in effect. Lapse of surety shall be a violation of this By-LawBy-law and the Town may take appropriate enforcement action. Surety will not be required for municipal or state-owned facilities.

D. ESTABLISHMENT OF LSGMSPVI OVERLAY DISTRICT

The LSGMSPVI Overlay District is hereby established. The boundaries of the LSGMSPVI Overlay District are shown on a map entitled "LSGMSPVI Overlay District," which is hereby incorporated in the Town Zoning Map. The LSGMSPVI Overlay District shall be considered superimposed on the other districts depicted on the Town Zoning Map. LSGMSPVIs are allowed as of right in the LSGMSPVI Overlay District. The provisions and requirements of the underlying zoning districts remain in effect, in all other respects.

E. SEVERABILITY

If any provision of this Section is invalidated, such invalidation shall not invalidate any other provision."

*1(Added ATM 4-2-2016)

ARTICLE P.

To see if the Town will vote to amend the Town's Zoning By-Laws as set forth on the immediately following pages, specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown as underlined: (Planning Board) (2/3 vote required)

Remainder of this page intentionally blank

Article P Summary

The proposed changes in this amendment are to:

- · Remove a type of project for filling in land exempt from a Special Permit
- Make minor copy edits for clarity and for consistency throughout the By-law

SECTION XIII. REMOVAL AND FILLING-IN

A. PURPOSE AND COMPLIANCE

Before granting a Special Ppermit for land removal or filling, the Planning Board must find all of the following purposes and criteria are met:

- Minimize Negative Impact on the Area. The proposed use protects adjoining premises against seriously detrimental uses. If applicable, this shall include provision for surface water drainage, sound and sight buffers and preservation of views, light, and air; and
- 2. Protect the Public Safety. The proposed use will promote the convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets, and minimize traffic impacts on the streets and roads in the area. If applicable, this shall include considering the location of driveway openings in relation to traffic and adjacent streets, access by emergency vehicles, the arrangement of parking and loading spaces, and provisions for persons with disabilities; and
- Protect the Natural Landscape. The proposed use will promote a harmonious relationship of structures
 and open spaces to the natural landscape, existing buildings and other community assets in the area; and
- 4. Protect the Town's Resources. The proposed use will not overload, and will mitigate adverse-impacts on, the Town's resources including the effect on the Town's water supply and distribution system, sanitary and storm sewage collection and treatment systems, fire protection, streets and schools; and
- 5. Be Harmonious with Area. The use will not unduly impair the integrity of character of the immediate area or adjoining areas, nor be detrimental to the health or general welfare.

B. ADMINISTRATION

Special Permits with Site Plan for land removal and filling authorized by the Planning Board shall be granted for the purposes of this section only after application to the Rockport

Planning Board for a Site Plan Special Permit, and a hearing by the Planning Board and shall be subject to the provisions of this By-lawBy-law.

Application for a Special Permit with Site Plan shall be made to the Planning Board on forms provided for that purpose, accompanied by the required fee. A Special Permit with Site Plan is required for removal of more than 300 cubic yards of carth material and filling of more than 300 cubic yards of clean fill. Regulations governing the application and fee shall be adopted by Planning Board.

Special Permits with Site Plan shall only be issued following public hearings held within sixty-five (65) days after filing of a completed application. The hearing for a Special Permit with Site Plan for Land Removal or Filling may be heard at the same time as and under the same public notice requirements of a site plan.

After a public hearing held in compliance with MGL c. Chapter 40A, s. Section 11, the Planning Board shall set regulations for the Removal of Earth Materials that define required setbacks for activities from abutting property lines, and the maximum period for which the permit will be in effect. Permits may be revoked by the Planning Board for non-compliance with the permit requirements.

C. DEFINITIONS CLEAN FILL

The Definitions included in Section 8.D. of the General By-law (Stormwater Management By-law) shall also-apply to this section. In addition, the following definitions are added: Clean Fill: Clean fill contains no garbago, refuse, rubbish, industrial or commercial or municipal fill or waste, demolition debris, septic sludge, lumber, wood, stumps, roots (greater than 4" in diameter), plaster, wire, pipes, laths, paper, cardboard, glass, metal, tires, ashes, asphalt, concrete, appliances, motor vehicles or parts of any of the foregoing. No fill containing levels of oil or hazardous materials above GW-1/8-1 Method 1 Standards, as described in the Massachusetts Contingency Plan (MCP) environmental regulations as revised, will be allowed.

D. REMOVAL OF EARTH MATERIALS

- 1. Special Permit with Site Plan Required.
 All removal of topsoil, sod, loam, humus, clay, sand, gravel, quarry, loam, sod, turf, ledge, stone or other earth materials, other than that which is incidental to and in connection with the construction of a building for which a permit has been issued in accordance with the Rockport Zoning By-lawBy-law and the Rockport General By-lawBy-law, that is intended to either disturb 10,000 square feet or more of land surface, or intended to remove 300 cubic yards or more of material as listed above from its undisturbed location, or intends to remove and process and treat raw materials, is required to apply for a Special Permit with Site Plan.
 - 2. Projects Exempt from Special Permit with Site Plan for Removal of Earth Materials
 - a. Any existing sand or gravel removal activity operating under a permit issued prior to the date of adoption of this By law By-law may continue until the expiration of the permit, except that any expansion or change in operation not covered by such permit shall require conformance with the above regulations.
 - b. Any project that does not exceed the threshold in Section D.1 above.
 - The removal of less than three hundred (300) cubic yards of material in the aggregate at any
 point over a three year span from any one lot.
 - d. The transfer of less than 100 cubic yards of material from one part of a lot to another part of the same lot within 300 feet of the source of the material.

- e. The removal of material necessarily excavated in connection with a permitted or otherwise officially approved construction of a building, structure, street or driveway of less than 10,000 sf in area, sidewalk, path or other appurtenance provided the quantity of material removed does not exceed that actually displaced by the portion of such building, structure, street, driveway, sidewalk, path or other appurtenances below finished grade.
- f. When such removal or placement is in accordance with the terms of an Order of Conditions or Determination of Applicability issued by the Conservation Commission pursuant to <u>MGL</u> <u>c.131, s.40.M.G.L. Ch. 131, s.40.</u>
- g. When placement is for landscaping, agricultural, or gardening purposes and the material to be placed consists of peat moss, tree bark, wood chips, or other vegetative mulch, loam, or crushed stone or gravel in a walkway, driveway, garden, or parking area.

3. Restrictions to be Incorporated into the Special Permit

- ha. No excavation, quarry, bank or work face in an area of unstable material extending under original ground level shall create a slope of more than one vertical to two horizontal. Quarries in stable solid rock may have a slope of a steeper grade. The Special Permit with Site Plan may require the installation of a fence if the location and slope pose a danger to public safety.
- i.b. Removal operation must comply with section 8.D. of the General By-lawBy-law
- <u>j.c.</u>—Stormwater Management <u>By-lawBy-law</u>. Adequate provision for drainage must be made both during and after the completion of operations.
- k- \underline{d} . All operations shall be conducted in such a manner so as to comply with the laws of the Commonwealth of Massachusetts regulating water pollution and air pollution.
- Hours of operation shall be designated by the Planning Board in issuing the Site Plan Special Permit.

2.4. Required information for the Site Plan to be submitted.

In addition to other requirements for Site Plan Review in Section 4XIII of the Rockport Zoning By-lawBy-law, the following provisions are required for the removal areas. The required plans and application information shall be prepared by a registered professional engineer or a registered land surveyor, with the following additional information:

- a. The location and description of water supply, wells, and sanitary sewerage systems and temporary and permanent drainage systems for the site and within 100 feet² of the site.
- b. Topographic mapping showing existing contours at intervals of not more than two (2) feet and contours of finished grade after the conclusion of the operation. The mapping shall also show the grades below which no excavation shall take place.
- c. The site plan must include the areas where at least four (4) inches of topsoil will be applied over all excavated, filled, or otherwise disturbed surfaces and seeding with a perennial cover crop, reseeded as necessary to assure uniform growth and soil surface stabilization.
- d. Submission of plan for lighting if night operation or security lighting is contemplated.
- The relocations of existing and future buildings and operations machinery to the removal areas.
- f. Delineation of the existing removal areas and the proposed area for removal in the immediate future.

g. Locations of any proposed substantial fence enclosing the excavation or quarry where it is deemed to be necessary for public safety.

3.5. Required Restoration.

Forthwith, following expiration or revocation of a permit, or upon voluntary cessation of operations:

- a. All land shall be graded, leaving no slopes in excess of one foot vertical to two (2) feet horizontal, surface drainage shall be provided for. The applicant shall bury or dispose of boulders and stumps; and shall cover the area with not less than four (4) inches of topsoil, with the exception of exposed ledge rock; and shall seed the area with cover vegetation of a perennial cover crop, which shall be established prior to release of the bond.
- b. Stockpiling. Topsoil stripped and stockpiled in preparation for construction or for earth removal shall be restored to its original distribution within eighteen (18) months of such stripping unless a valid building permit or earth removal permit is in force.
- c. Restoration will be complied with within six (6) months of expiration of the building permit or issuance of a Certificate of Occupancy, or within one year of issuance of a Sepecial Permit.
- d. The Bond shall not be released until sufficient time has elapsed for the Planning Board or its agent to ascertain that the vegetation planted has successfully been established and that drainage is satisfactory.

4.6. Performance Guarantee.

The Planning Board shall require a surety bond signed by a Surety Company authorized to do business in the Commonyealth of Massachusetts, or other acceptable performance security, in an amount approved by the Board as sufficient to guarantee conformity with the provisions of the permit issued hereunder.

- a. The Planning Board may require the Permittee to post, before the start of land removal, a surety bond, irrevocable letter of credit, cash, or other acceptable security as performance guarantee, to be in an amount deemed sufficient by the Planning Board to ensure that the work will be completed in accordance with the permit. If the project is phased, the Permit Authority may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Planning Board has received the Final Report as required by this by-lawBy-law and has issued a Certificate of Completion.
- b. The Land Removal and Filling-In Rules and Regulations prepared by the Planning Board and implemented after a public hearing consistent with MGL c.40A, s.11Chapter 40A, Section-14 shall establish reasonable criteria for assessing the Performance Guarantee.

5.7. Renewal of Permit.

For a continuation of an operation beyond a period designated in the initial permit, a new application must be granted in the same manner as for the initial permit except that the Planning Board may waive requirements for submittal of materials required by this section. The waiver must be granted in writing by the Board to the applicant. All other provisions relating to operational standards and permit procedures shall apply.

D.E. FILLING-IN OF LAND

For the filling-in of any land area which is not exempted in Section 2 below, no such filling- in of land shall proceed without first securing a Special Permit with Site Plan, according to the regulations adopted by the Planning Board in accordance with Section B. of this By-lawBy-law, and procedures set forth in this By-lawBy-law, subject to the provisions contained herein.

A Special Permit with Site Plan for filling-in shall be issued only for clean fill as defined in Section C. No other fill materials will be permitted in fill in the Town of Rockport.

- 1. Threshold for Projects Requiring a Permit
 - n. A filling-in operation which exceeds a total of three hundred (300) cubic yards of material.
 - b. A filling-in operation which exceeds a total area of ten thousand (10,000) square feet on any lot, land parcel or subdivision thereof.
 - c. Any filling on private ways within the Town of Rockport which exceeds a total of 100 cubic yards of material or which exceeds a total area of one thousand (1,000) square feet of area of the way.
- 2. Projects Exempt from Special Permit with Site Plan.
 The filling-in of any land area shall be exempt from this Section provided any of the following conditions are fully complied with:
 - a. A filling-in operation which is associated with acceptable agricultural land management practices, including, but not limited to, plowing and construction of agricultural structures; nursery operations, such as the removal and/or transplanting of cultivated sod, shrubs, and trees; logging operations; filling with leaves, manure, and composted material.
 - 7. Filling in operations associated with refuse disposal and sanitary landfill facilities operated by the Town of Rockport and operated in accordance with all appropriate State and local regulations.
 - b. Filling-in operations necessary in connection with permitted or approved construction of a building, structure, street, drivoway, sidewalk, path or other appurtenance that has already received review and approval as subdivision, site plan, or <u>Sepecial Permit under the Rockport Zoning By-lawBy-laws</u> or Subdivision Regulations
 - c. Filling-in as a maintenance measure, or for landscaping purposes on existing developed lots or parcels, provided that the aggregate of areas affected does not exceed ten thousand (10,000) square feet, the constructed grade change does not exceed twelve (12) inches at any point and does not alter the drainage patterns, and the filling-in does not involve a quantity of material in excess of three hundred (300) cubic yards.
- 3. New Permit Required on Expiration.

 For a continuation of an operation beyond a period designated in the initial permit, a new application must be made and a new Special Permit must be granted in the same manner as for the initial permit except that the Planning Board may waive requirements for submittal of documents required by this section. All other provisions relating to operational standards and permit procedures shall apply to the extension also. A separate permit shall be required for each separate non-contiguous site and for any

expansion on the same site.

4. Required Site Plan, A site plan shall be filed with the Planning Board for any land which is to be filled and is not exempted under the provisions of this section of the Rockport Zoning By- law. Site plans for fill areas shall be prepared by a registered professional engineer or a registered land surveyor in accordance with this section and Section IXXIII of the Rockport Zoning By-law By-law. In addition to the requirements of Section 1X-XIII of the Rockport Zoning By law By-law, site plans must include the following for the site to be filled and the area within one hundred (100) feet of the site to be filled:

- n. The premises and surrounding area within one hundred (100) feet showing the area to be filled in, property lines within which the filling is proposed, existing and proposed contour lines at intervals of not more than two (2) feet resulting from the proposed filling-in, in relation to the topography of the premises.
- b. The location of any buildings, structures, utilities, sewers, wells, water and storm drains within one hundred (100) feet of the site.
- c. A certification of the quantity and type of fill involved by submission of the Applicant, and a description of the fill to be provided. Only clean fill may be used for fill.
- d. Detailed plans of all temporary and permanent drainage provisions, retaining walls, cribbing, vegetative practices, erosion and sedimentation control measures and all other protective measures and devices utilized or constructed in connection with the area to be filled.
- c. A schedule and sequence indicating the anticipated starting and completion dates.
- f. A plan for lighting if night operation is contemplated or for nighttime security.
- g. Other plans, drawings or materials as may be required by the Planning Board or by Section 1X XIII of the Reckport ZZoning By-law, and plans adequate to show compliance with all of the conditions described in Section 5 below.
- h. A plan showing how the restoration of the filled area will be completed to meet the requirements of this By-law By-law.

5. Conditions for the Filling-In. For any operation subject to the provision of Section E.1 of this By-law, the following conditions

- a. Provision shall be made for adequate temporary and permanent drainage of the site consistent with the requirements of the Stormwater Management By- law or a Stormwater Permit.
- b. Fills shall be limited to terrace fills which are not to exceed ten (10) feet at any one time nor be within ten (10) feet of an adjacent property line or cut.
- c. Re-grading of all or parts of the slopes resulting from such fill shall be carried out.
- d. At least four (4) inches of topsoil shall be replaced over all filled or otherwise disturbed surfaces, seeded or sodded with a perennial cover crop, and re-seeded or re-sodded as necessary to assure uniform growth and soil surface stabilization.
- e. The Planning Board may require temporary fencing six (6) feet in height with suitable gates protecting the filled area if it is needed for public safety. This may be needed where any fill will have a depth of ten (10) feet or more and create a slope of more than one vertical to two horizontal. Such fence shall be located ten (10) feet or more from the edge of the fill.

- f. Documentation shall be submitted by the Applicant as to the effect of such filling-in activities on drainage, both within the immediate area and sufficiently far downstream to encompass all the area potentially impacted, at the sole discretion of the Planning Board.
- g. No final slopes shall exceed a slope of more than one (1) foot vertical to two (2) feet horizontal.
- h. No filling-in of land shall cause or permit any earth material or water or liquid to be deposited upon or to roll or flow over the premises of another without the written consent of the owner of such premises so affected; nor shall any filling-in of land cause or permit any earth material or water or liquid to be deposited, or to roll, flow, or wash upon or over any public street, street improvement, road, sewer, storm drain, water course, or right-of-way, or public property.
- i. Such other conditions as may be deemed necessary and reasonable shall be imposed by the Planning Board in order to prevent damage to public or private property or any sewer, storm drain, or watercourse, or to prevent
- the filling-in of land from being conducted in a manner hazardous to life or property, or in a manner likely to create a nuisance.

ARTICLE Q.

To see if the Town will vote to amend the Town's Zoning By-Laws as set forth on the immediately following pages, specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown as underlined: (*Planning Board*) (2/3 vote required)

Remainder of this page intentionally blank

Article Q Summary

The proposed changes in this amendment are to:

- Remove definitions from this section, which are consolidated into the Definitions section
- · Clarify when Site Plan approval takes effect
- Make minor copy edits for clarity and for consistency throughout the By-law

SECTION XIV41 SITE PLAN REVIEW *1

(section XI-added Annual Town-Meeting April 2, 2011)

A. PURPOSE,

Site Plan Review is a means of protecting the public interest through the evaluation of potential impacts of new development and redevelopment of land and structures within the Town of Rockport. Site Plan Review minimizes impacts that are otherwise permitted through the imposition of reasonable conditions.

T. DEFINITIONS.

U.

- YV.A. Site Plan Application—The "Site Plan Application" consists of the maps, drawings, and allother written materials submitted by the Applicant in furtherance of obtaining Site Plan approval.
- X.A. Project—The "Project" is the construction of structures or buildings, the alteration or enlargement of existing structures or buildings, or the alteration of the ground for which an Applicant seeks approval of the Site Plan Application

¥-

B. SITE PLAN REVIEW CLASSIFICATION:

- 1. Minor Construction Project. The following are classified as a Minor Construction Projects:
 - a. The construction or exterior expansion of a single_family or two-family dwelling and any accessory or appurtenant building when the gross floor area of the buildings either separately or combined is 6,000 square feet or more.
 - b. The construction of a parking lot with six or more parking spaces or the expansion of an existing parking lot which expansion increases the number of parking spaces to six or more.
 - c. The construction or addition of a raised loading dock on an existing building.
 - d. The construction or addition of a drive-thru onto an existing building.
 - e. Land removal or land filling subject to Section XII of the Zoning Bylaw By-lavy. In the SRAA

zoning district, site plan review is required if land removal or land filling disturbs 20,000 square feet or more.

- f. The installation of large-scale ground mounted solar photovoltaic systems under Section IX.
- 2. Major Construction Project. The following are classified as a Major Construction Project:
 - g:n. The construction of a multifamily dwelling;
 - h.b. The construction of an Educational, Institutional, or Recreational building as listed in section III,

 B of the Table of Schedule of Uses in the Zoning BylawBy-laws. Buildings used solely for agricultural purposes are exempt from Site Plan Review;
 - i.c. The construction of a building for Retail Business and Commercial Service Uses as listed in section Section III. B of the Table of Permitted Uses;
 - <u>j.d.</u> The construction of a building for Commercial or Industrial Uses as listed in seetion-<u>Section III,</u>

 B of the Table of Permitted Uses;
 - k.c. Any Minor Construction Project that the Planning Board, in its discretion, determines should be classified as a Major Construction Project.
 - 4.f. The expansion within a five-year period of an existing building, which would have been classified originally as a Major Construction Project, by 1,500 square feet of gross floor area or a 30 percent increase in the gross floor area, whichever amount is less.

C. REVIEW CRITERIA FOR MINOR AND MAJOR CONSTRUCTION PROJECTS.

Construction and site alterations subject to Site Plan review shall be considered in the context of the location, the proposed use, and when new construction or redevelopment of structures is involved, the design of the building. As is reasonably practicable, a proposed Site Plan shall achieve the following objectives:

1. Minimize the following:

- a. the disturbance to the natural and existing landscape;
- b. the removal of trees of over 24" circumference at breast height;
- c. the length of removed stone walls, and
- d. the volume of stormwater flow from the site, soil crosion, and the threat of air or water pollution;
- e. Maximize pedestrian, bicycle, and vehicular access and safety both on site and when entering and leaving the site;
- f. Minimize the obstruction of scenic views from public locations;
- g. Minimize the visibility of parking, storage, or other outdoor service areas that could be viewed from public areas or developed residential properties;
- h. Require that outdoor lighting comply with the Town's outdoor lighting bylaw By-law and minimize the glare from the headlights of vehicles;
- i. Require the use of architectural features, materials and scale so that proposed structures are in

harmony with existing buildings in the immediate vicinity;

- j. Require the use of landscaping and other outdoor features that will enhance the visual quality of the site:
- k. Minimize to the extent practicable adverse environmental impacts to adjacent properties by limiting hours of operation, noise, odor, dust and vibration, and by requiring appropriate design and materials for containment, ventilation, screening, sound proofing, and sound dampening;
- L.Provide stormwater management and plans for the construction of roads and driveways which are consistent with the Town's Subdivision Regulations, State and Federal law, and the requirements of the Department of Public Works;
- m. Provide adequate access to the site structures for fire and public safety equipment;
- n. Provide adequate utility and wastewater disposal services.

(b)-

C. SITE PLAN REVIEW FOR RELIGIOUS OR NONPROFIT EDUCATIONAL INSTITUTIONS.

Pursuant to MGL c.40A, s.3. Section 3, Chapter 40A of Title VII of the Massachusetts General Laws, Site Plan Review of lands owned by a religious sect or denomination or by -a-nonprofit-education-corporation-is-limited-to-the-bulk-and-height—of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

D. REQUIRED SUBMISSIONS

- 1. Minor Construction Projects. At least seven (7) days prior to a regularly scheduled Planning Board meeting, an Applicant shall file with the Planning Board Secretary an Application and four copies of the site plan at a scale appropriate on a 24" x 36" sheet and 13 copies of the same site plan in an 11" x 17" format. The planning board secretary shall distribute a copy of the application and four of the 24" x 36" plans, or, alternatively, distribute a single copy of each document electronically in PDF format, to each of the Department of Public Works, the Building Inspector, Town Clerk, and the Planning Board office file. The Planning Board secretary shall distribute the remaining 11" x 17" copies as follows: one each to the Board of Selectmen, one each to the Board of Appeals, one to the Conservation Commission, one to the Board of Health, one to the Historic Preservation Commission, one to the Chief of Police, one to the Fire Chief, and five to the Planning Board members, and one to the Town Planner. Alternatively, the Planning Board secretary may distribute the above described plans electronically in PDF format.
- 2. Major Construction Projects. At least 14 days prior to a regularly scheduled Planning Board meeting, an Applicant shall file with the Planning Board Secretary an Application, four copies at a scale of Standard format plan 24" x 36" sheet, 13 copies of the same site plans in an 11" x 17" format which conform to the Site Plan Approval Review Plans and Submittal Checklist of the Planning Board Rules and Regulations. The planning board secretary shall distribute a copy of the application and four of the 24" x 36" plans, or, alternatively, distribute a single copy of each document electronically in PDF format, to each of the Department of Public Works, the Building Inspector, Town Clerk, and the Planning Board office file. The Planning Board secretary shall distribute the remaining 11"x 17" copies as follows: one each to the Board of Selectmen, one each to the Board of Appeals, one to the Conservation Commission, one to the Board of Health, one to the Historic Preservation Commission, one to the Chief of Police, one to the Fire Chief, and five to the Planning Board members, and one to the Town Planner.

Alternatively, the Planning Board secretary may distribute above described plans electronically in PDF

Applicant other than the Property Owner. If a person who is not the owner of the subject property is the Applicant on a Site Plan Application, a signed statement from the owner of the subject property granting full authority to the Applicant must be submitted with the Site Plan Application.

4. Plan Contents

n. Minor Construction Project Site Plan Requirements.

Scaled site plans -should show the following:

- (1) The existing and proposed boundaries, and the lot dimensions and area;
- (2) The location of all existing and proposed buildings;
- (3) The location of existing and proposed driveways, parking areas parking spaces, and handicapped parking and access;
- (4) The zoning for the property and any zoning district boundaries that may intersect the site;
- (5) Details of the existing and proposed open space, proposed areas of landscaping, existing trees, if 24 inches in diameter or more, and the types and size of plants and trees for proposed landscaping; and
- (6) Any mechanical equipment or storage tanks to be located at grade.
- (7) Topographic data is required on a site plan unless the applicant can demonstrate that such data is unnecessary for the review of a Minor Construction Project.
- b. Architectural Drawings. An Applicant shall submit scaled elevation drawings for a minor construction Project that show the following:
 - (1) Details of major architectural elements;
 - (2) Specification of materials to be used;
 - (3) Dimensions of the building or addition, including the location of exterior mechanical equipment.
- c. Major Construction Site Project Plan Requirements. The Major Construction Project Site Plan Checklist submission requirements are contained in the Rules and Regulations of the Planning Board.
- d. Minor Construction Project Review Procedure. The Planning Board shall review Project submissions for the sufficiency of the documentation, and, if required, refer the Project to the Zoning Board of Appeals, the Historic District Commission, the Conservation Commission, or any other board or commission that would have jurisdiction over the Project. On a Minor Construction Project, the Planning Board shall hold a public hearing within 60 days from the filing date of the application or within 45 days after a Project referred to another board or commission has been returned to the Planning Board by that board or commission. The Planning Board shall decide the Site Plan Application within 30 days of the close of the public hearing.
- e. Major Construction Project Review Procedure. The Planning Board shall review the Site Plans submitted against the Plans and Submittal Checklist to determine the sufficiency of the documentation

and, if required, refer the Project to the Zoning Board of Appeals, the Historic District Commission, the Conservation Commission, or any other board or commission that would have jurisdiction over the Project. On a Major Construction Project, the Planning Board shall hold a public hearing within sixty (60) days from the filing date of the application or within forty-five (45) days after a Project referred to another board or commission has been returned to the Planning Board by that board or commission. The Planning Board shall decide the Site Plan Application within thirty (30) days of the close of the public hearing.

- f. Walver of Site Plan Requirements, Upon written request of an Applicant, the Planning Board may waive any plan content requirement of subsection 5 above or any requirement of the Plans and Submittal Checklist in the Rules and Regulations of the Planning Board. The Applicant shall have the burden of demonstrating to the Planning Board that a requirement for which a waiver is sought is either burdensome or unnecessary for an adequate review of the Project. The Planning Board's waiver of any requirement shall be made by resolution of the Board adopted prior to the close of the public hearing, and the Planning Board shall set forth in the resolution the reason the waiver is granted.
- g. Withdrawal of Waiver. If during the approval process the Planning Board discovers new information that would have caused the Board to refuse to grant a waiver already granted, the Planning Board may rescind the previously granted waiver.
- In. Consultants. In its discretion, the Planning Board may determine that the Planning Board requires the advice of outside consultants in connection with the Board's review of a Site Plan. Upon such determination, the Planning Board shall inform the Applicant of the funds that the Applicant shall be required to deposit in an escrow account with the Town to cover the Board's anticipated professional fees. To continue the review process, the Applicant shall deposit with the Town the funds requested by the Planning Board for its consultant review. If the escrow becomes insufficient to reimburse the Planning Board for its consultant fees, the Applicant may be required by the Planning Board to deposit additional funds with the Town. All escrowed fees shall be deposited prior to the Planning Board's issuance of an approval to a Site Plan Application. Surplus funds deposited by the Applicant shall be refunded to the Applicant within 30 days of a final determination on the Site Plan Application. An applicant shall have a right of appeal to the Board of Selectmen from the Planning Board's selection of an outside consultant under this section as described in Mass. Gen. Law Chapter 44, section 53G.
- i. Public Hearing. The Planning Board shall schedule a public hearing within with the time periods set forth in 6(e) or (f) above after receipt of the Application and applicable filing fee. The Planning Board shall prepare the notice of the public hearing, and the applicant shall be responsible for providing notice as set forth in this section and shall pay the costs of publication and mailing. Notice shall be given as follows:
 - a. Notice of the public hearing shall be published in a newspaper of general circulation in the Town of Rockport, once in each of two successive weeks. The first publication of the notice shall be not less than <u>fourteen (14)</u> days before the hearing and second publication of the notice shall be not less than <u>five (5)</u> days before the hearing.
 - A notice of the public hearing shall also be posted in the town hall by a date not less than fourteen (14) days before the public hearing.
 - c. Notice of the public hearing shall be mailed by first class mail at least <u>fourteen (14)</u> days before the public hearing date to property owners who are abutters to the Project parcel(s), who are owners of land directly opposite on any public or private street or way, or who are abutters to the abutters and within 300 feet of a property line of the Project parcel(s) as those owners appear in the most recent applicable tax list. Notice shall also be mailed to the

planning board of every abutting city or town.

d. Prior to the public hearing, the Applicant shall file with the Planning Board Secretary a statement from the Town Assessor's Office certifying to the Planning Board the names and addresses of the property owners whom the Applicant was to notify of the public hearing and shall provide to the Secretary certified mailing receipts with return receipts requested showing that the notice of the public hearing was mailed. The sheet with names and addresses of property owners must have all return receipts returned before submitting to Planning Board.

j._Decision

- a. The Planning Board shall issue a decision on a Site Plan Application within thirty (30) days of the close of the public hearing. The Planning Board's decision and shall be in writing. The decision shall take one of the following actions:
 - i (a) Approve the Site Plan Application without conditions;
 - ii. (b) Approve the Site Plan Application with the Planning Board imposing conditions reasonably related to achieving the objectives of the Review Criteria set forth in subsection 3(c) above;
 - iii. (c) Deny the Site Plan Application because the Project did not meet the objectives of the Review Criteria set forth in Section C above; or,
 - iv. (d) Deny the Site Plan Application because the Applicant has not provided information or documentation required for the Planning Board to rule on the Application and the Planning Board determines that the Application remains incomplete.
- b. Decisions on Site Plan Applications for Religious or Nonprofit Educational Uses.

The Planning Board may impose reasonable conditions as provided in section 4 above on a Site Plan Application for a Religious or Nonprofit Educational Facility, but it shall not deny such Site Plan Application.

- c. Approval of a Site Plan Review application or any extension, modification or renewal thereof shall not take effect until a copy of the decision bearing the certification of the Town Clerk that 20 days have clapsed after the decision has been filed in the office of the Town Clerk and either that no appeal has been filed or the appeal has been filed within such time. Proof of recording with the Essex Registry of Deeds shall be presented to the Building Inspector prior to the commencement of work.
- k. Duration. Site Plan approval shall expire two years after it is granted if construction of the Project is not commenced within that period. Upon application made prior to the expiration of the two years, the Planning Board may extend the Site Plan approval for an additional 90 days.
- L. Regulations, The Planning Board may adopt and from time to time may amend rules and regulations for the administration of Site Plan Review.

- m. Fees, Board fees associated with the Site Plan approval process are to be set by resolution of the Board.
- n. Enforcement by the Building Inspector Prior to the issuance of a Certificate of Occupancy, the Building Inspector shall determine that the Project has been constructed in accordance with the approved Site Plan and any conditions imposed by the Planning Board.
- o. Appeal. Decisions of the Planning Board regarding site plan approval shall be appealed as set forth in G.LMGL c. Chapter. 40A, s. Section 17 to a court of competent jurisdiction
- *1 (Replaced with current text ATM 4-27-2019)

ARTICLE R.

To see if the Town will vote to amend the Town's Zoning By-Laws as set forth on the immediately following pages, specific only to the amendments indicated with strikethrough text to be deleted and new text to be inserted shown as underlined: (Planning Board) (2/3 vote required)

Remainder of this page intentionally blank

Article R Summary

The proposed changes in this amendment are to:

- · Add provisions for enforcement by Building Inspector
- Make minor copy edits for clarity and for consistency throughout the By-law

SECTION XIV ADMINISTRATION

A. ENFORCEMENT

The provisions of this Zoning By-ylaw shall be enforced by the Inspector-of-Buildings Building Inspector

Any person may file a written request to the Building Inspector for enforcement of this By-lawBy-law with reference to an alleged violation, as provided in MGL c.40A, s7-G.L. c. 40A, § 7. Within fourteen (14) days of receipt of the request, the Building Inspector shall investigate the facts and inspect the alleged violation and, if the Building Inspector finds evidence of a violation, the Building Inspector shall give written notice to the owner and occupant of said premises and demand that such violation be abated within such time as the Building Inspector deems reasonable. The notice and demand may be given by mail, addressed to the owner at the address as it then appears on the records of the Board of Assessors, and to the occupant at the address of the premises.

If after notice and demand the violation has not been abated within the time set by the Building Inspector, the Building Inspector shall institute appropriate action or proceedings in the name of the Town of Rockport to prevent, correct, restrain, or abate such violation.

If the Building Inspector determines that there is no violation, the Building Inspector shall give written notice of the decision to the complaining person within fourteen (14) days after the receipt of such request.

1. Appeal.

An appeal to the Board of Appeals may be taken by any person aggrieved due to inability to obtain a permit or enforcement action from the Building Inspector, as provided in MGL c.40A, s.8, as amended.

2. Penalty.

If the notice of violation is not complied with according to the time specified in the notice, the Building Inspector may, in accordance with MGL c.40, s.21D-G.L. c. 40, § 21D, institute a non-criminal complaint(s) with penalty. Each day in which a violation exists shall be deemed a separate offense. The penalty for violation of any provision of this By-lawBy-law shall be \$300. Each day, or portion of a day, in which a violation exists shall be deemed a separate offense.

B. BUILDING PERMITS, SPECIAL PERMITS, VARIANCES

The Inspector of Buildings Building Inspector shall withhold a permit for the construction, alteration or moving of any building or structure if the building or structure as constructed, altered or moved would be in violation of any provisions of the Zoning BylawBy-law; and no permit or license shall be granted for a new use of a building, structure or land which use would be in violation of any provision of this Zoning BylawBy-law.

Construction or operations under a building permit or Sepecial Permit shall conform to any subsequent amendment of this Zoning BylawBy-law unless the use or construction is commenced within six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable. Permits will not be granted for the construction or alteration of any structure that will cause a change in existing grades and contours which interfere with drainage of water from the public highways unless provision is made at the owner's expense for the proper disposal of such water by gutters, ditches, pipes or other necessary drainage structures. The owner will grant to the Town all drainage easements which are necessary to establish and preserve the changed drainage system or facilities.

All special permitSpecial Permits, variances, and other relief granted by the Planning Board and Board of Appeals are conditioned upon compliance with the conditions set forth in such permits and other forms of relief and the State Building Code.

C. BOARD OF APPEALS

Establishment, The Selectmen shall appoint a Board of Appeals of five (5) members, as
provided by law. Appointments shall be for the term of five (5) years. The terms shall be
staggered so that the term of one (1) appointee will expire each year.

Vacancies shall be filled by the Selectmen by appointment for the balance of the term in which the vacancy occurs. Associate members, to fill vacancies caused by absence, inability to act or interest on the part of a member, shall be appointed by the Selectmen annually for a term of one one (1) year.

- Rules and Regulations. The Board of Appeals shall adopt and from time to time amend rules relative to the issuance of permits. The Board of Appeals shall file a copy of said rules in the office of the Town Clerk.
- Powers. The Board of Appeals shall, in addition to all other powers given to it by law, have the power to hear and decide appeals, to hear and decide applications for specialpermitSpecial Permits as applicable, and to hear and decide petitions for variances.
- 4. Procedures. No permit, appeal or variance shall be granted by the Board of Appeals except after a public hearing, as required by law. Notice and the publication and giving of notice for such public hearing and the procedural requirements for such public hearings shall be those set forth in MGL c40A, as amended, which is incorporated herein by reference. The Board of Appeals may impose appropriate

conditions and safeguards in all its decisions and may impose limitations both of time and of use. A continuation of a use permitted by a special permitSpecial Permit or variance may be conditional upon compliance with the terms, conditions and safeguards set forth in such special permitSpecial Permit or variance.

 Variances. This Zoning By-law specifically permits the Board of Appeals to grant variances for use in any district.

11.____

D. SPECIAL PERMITS

1. PENALTY SPECIAL PERMITS

A-

Special Permits shall only be issued following public hearings held within the period, established by Law, after the filing of an application with the Zoning Board of Appeals or Planning Board. as applicable.

Special Permits shall lapse within three years, and including such time required to pursue or await the determination of an appeal referred to in <u>MGL c.40A, s.17-General Laws. Chapter 40A, \$17-</u> as amended, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in case of a permit for construction, if construction has not begun by such date except for good cause.

- Guidelines. In addition to any other guidelines or standards established herein, unless
 otherwise provided by law, the Special Permit Granting Authority shall, before granting a
 special permitSpecial Permit, find that, in its judgment, all of the following conditions are
 satisfied:
 - a. The specific site is an appropriate location for such use, structure or condition.
 - b. The use or action will not be detrimental to the neighborhood, and, without limiting the foregoing, because of noise, odors, vibration or unsightliness.
 - Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
 - d. The proposed use, structure or condition is in harmony with the general purpose and intent of this Zoning By-LawBy-law.

Z. Whoever violates any provision of this by law shall be punished by a fine-not exceeding \$300,00 for each violation. Each day that such violations continue shall constitute a separate offense.

E. INVALIDITY

The invalidity of any section or provision of this bylawBy-law shall not invalidate any other section or division thereof.

F. -EFFECTIVE DATE

This bylaw By-law shall take effect as provided by law.

G. AMENDMENTS

This Bylaw By-law may be amended at any Annual or Special Town Meeting.

This $\frac{Bylaw}{By-law}$ shall supersede all previous $\frac{bylaw}{By-law}$ s.

ARTICLE S

To see if the Town will amend the code of bylaws chapter 2 section 4d by adding at the end of the current wording additional language regarding participation in debate: "The Moderator is under no obligation to end debate immediately by motions from the floor to call the question. After a motion to call the question is moved and seconded but before the assembly votes, the Moderator shall as a question "Does anybody have anything new to add for consideration before a vote to end debate; if so please respond by standing or raising your hand" or by asking a substantially similar question. Any and all such responders shall be allowed two (2) minutes each to summarize and put forth new considerations. New considerations can include expansion of points made by other speakers but must consist of an original idea or concept which builds upon rather than merely repeats or consists of opinion favoring or disfavoring arguments previously made. Additional time beyond two minutes may be granted at the Moderator's discretion. (Citizen Petition) (requires majority vote)

ARTICLE T

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for a special act amending the Town Charter and Chapter 242 of the Acts of 1959, as amended by Chapter 619 of the Acts of 1987, and as most recently amended by Chapter 133 of the Acts of 1995 by inserting after the words "Multiple Offices," the words "Except where mandated by state law"; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court; and, provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition. (Citizen Petition) (requires majority vote)

ARTICLE U

To see if the Town will seek to amend wording of Chapter 7, Section E, subsection 3 in the Code of By-Laws to comply with current state law by removing "s" after member and remove "or its designees" after the word Selectmen. (Citizen Petition) (requires majority vote)

ARTICLE V

To see if the Town will vote to delete from the Code of By-laws, chapter 2, Town Meetings, section 3, Preparation for Town Meeting, subsection b, reading "Amendments. Where practical, anticipated motions to amend main motion under any warrant article shall be provided to the Moderator in writing 48 hours prior to Town Meeting." (Citizen Petition) (requires majority vote)

ARTICLE W

To see if the Town will vote to amend the Code of By-Laws, Chapter 2, Town Meetings, Section 4c, order of Action, by adding a new subsection (ii) "for any article that is non-binding, before the article is moved, the Moderator shall state why the article is non-binding." (Citizen Petition) (requires majority vote)

ARTICLE X

To see if the Town will vote to amend the Town of Rockport Code of By-Laws, Chapter 3, Section 4, Paragraph c, as set forth below with new text to be inserted shown in **bold**; and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness.

CHAPTER 3. ELECTED OFFICERS

Section 4. Board of Selectmen

c. Appointing Powers. The Board of Selectmen shall appoint the zoning board of appeals, collector and treasurer, veterans' agent, sealer of weights and measures, inspector of animals, officers and registrars of voters other than a town clerk, director of emergency management, election officers, forest warden, building inspector, town accountant, finance committee, town attorney, members of the town police department, fire engineers, members of the board of health, a board of commissioners of public works, town administrator, and members of all appointed multiple member bodies for whom no other method of selection is provided by the charter, by-law, general or specific law, except persons serving under other elected town officers and officials appointed by state officers. Residents may serve on any number of multiple member bodies. (Citizen Petition) (requires majority vote)

ARTICLE Y

To see if the Town will vote to amend the Town of Rockport Code of By-Laws, Chapter 6, Section 6, as set forth below with new text to be inserted shown in **bold**; and further, that the Town Clerk be authorized to make any and all ministerial changes including but not limited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness.

CHAPTER 6. APPOINTED BOARDS AND COMMITTEES

Section 6. Written Description

For each Town officer, board, and committee set forth in Section 1 herein, the Board of Selectmen shall:

- a. Appointed Town Officer. Set forth a written position description describing the individual's powers and duties and any other requirements which, in the judgment of the Board of Selectmen, would be included in the position description for that Town Officer.
- b. Appointed Boards and Committees. Set forth a written description of the board or committee's charge including its powers and duties, the scope of its jurisdiction and/or subject matter, and the composition and term of office of its members.
- c. Board and Committee Members. Encourage residents to volunteer for committees with no limit on the number of boards and committees on which each resident can serve. (Citizen Petition) (requires majority vote)

ARTICLE Z To see if the Town will approve the following citizen petition:

In the Town of Rockport Code of By-Laws amended May 15, 2021. Change in Chapter 2 Section 4b In line three by striking out, "those persons," and replace with 150 of the Rockport registered voters present. (Citizen Petition) (requires majority vote)

ARTICLE AA

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for a special act providing for recall elections in the town of Rockport, in the form set forth herein; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court; and, provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

SECTION 1. Any holder of an elective town office in the town of Rockport may be recalled from office for any reason by the registered voters of the town as provided in this act.

SECTION 2. An initial recall affidavit signed by at least 20 registered voters of the town containing the voters' names and addresses may be filed with the town clerk. The initial recall affidavit shall contain the name of the officer sought to be recalled, the office sought to be recalled and a statement of the grounds for recall. The grounds for a recall shall include by not be limited to any of the following reasons: lack of fitness; neglect of duties; corruption; malfeasance; misfeasance; nonfeasance; violation of Massachusetts General Law(s); Town of Rockport By-law(s), regulation(s), oath of office or other abdication of the applicable requirement for the elected position. Exercising discretion in voting or acting on matters before such office holder shall not be a reason for recall. The town clerk shall immediately forward the recall affidavit to the board of registrars of voters for verification of signatures.

SECTION 3. The board of registrars of voters shall verify the signatures on the initial recall affidavit within 14 calendar days of the receipt of the initial recall affidavit. If the initial recall affidavit is found to contain a sufficient number of verified signatures, the town clerk shall deliver to the first 10 registered voters who signed the affidavit a formal numbered and printed recall petition sheet with the town clerk's official seal and addressed to the board of selectmen demanding the recall and the election or appointment to a successor to the office. Prior to the delivery of the recall petition sheet, the town clerk shall fill out the top portion of each recall petition sheet naming the elected official sought to be recalled, the grounds for recall stated in the initial recall affidavit, the names of

the first 10 registered voters that signed the affidavit and shall demand the election or appointment of a successor to the office. A copy of the recall petition, the initial recall affidavit, and/or related supporting documents shall be entered in a record book to be kept in the office of the town clerk, available for public review. The 10 registered voters of the town to whom the town clerk delivered recall petition sheets shall have 30 days from the date of delivery of the recall petition sheets in which to file their signed recall petition sheets with the town clerk. To proceed with the recall election, the town clerk shall receive within 30 days from the date of delivery of the recall petition sheets, the required number of signed recall petition sheets containing the signatures, names and street addresses of a least 10 per cent of the registered voters of the town as of the date the signed recall petition sheets are delivered to the town clerk. Within 5 working days of receipt of the recall petition sheets, the town clerk shall submit the recall petition sheets to the board of registrars of voters and the board of registrars of voters shall verify the number of signatures which are names of registered voters of the town.

SECTION 4. If the total number of voters on official recall petition sheets shall be found and certified by the board of registrars of voters to be sufficient, the certified petition shall be submitted with the certificate of the town clerk to the Select Board without delay. The Select Board shall give written notice of the receipt of the certified petition to the officer sought to be recalled. If the officer does not resign within 5 calendar days of the date notice is given by the Select Board, then the Select Board shall promptly order an election to be held on a date fixed by them not less than 64 nor more than 90 days after receipt of the certified petition; provided, however, that if any other town election is scheduled to occur within 100 days after the date of receipt of the certified petition, the Select Board may postpone the holding of the recall election to the date of the other election and may include the question of recall on the ballot for another election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this act.

SECTION 5. No officer sought to be recalled may be a candidate to succeed themself. The nomination of other candidates, the publication of the warrant for the recall election and the conduct of the nomination and publication, shall all be in accordance with the law relating to elections, unless otherwise provided for in this act.

SECTION 6. The incumbent shall continue to perform the duties of the office until the recall election. If the incumbent is not recalled, the incumbent shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided in this act. If the incumbent is recalled, and no other candidates were on the ballot, the office will be declared vacant.

SECTION 7. Ballots used in a recall election shall contain the following propositions:

FOR THE RECALL OF THE [NAME OF OFFICER] ()
AGAINST THE RECALL OF THE [NAME OF OFFICER] ()

Adjacent to each proposition, there shall be a place to mark a vote. Following the propositions shall appear the word "Candidates" with directions to the voters as required by section 42 of chapter 54 of the General Laws. Beneath the word "Candidates' shall appear the names of candidates nominated as provided in this act. Adjacent to the name of each candidate shall be a place to mark a vote.

If a majority of the votes cast upon the question of recall are in favor of recall, the officer shall be recalled and the votes for the candidates (if any) shall be counted. In that instance the candidate receiving the highest number of votes shall be declared elected for the open office. If less than a majority of the votes cast are in favor of recall, the votes for candidates shall not be counted.

SECTION 8. An initial recall affidavit shall not be filed against an officer within 3 months after the officer takes office or within the last 3 months of a term. In the case of an officer subjected to a recall election and not recalled, a new recall affidavit shall not be filed against that officer until at least 3 months have elapsed after the election at which the previous recall was submitted to the voters of the town.

SECTION 9. A person who has been recalled from an office or who has resigned from office while a recall petition was pending against them shall not be appointed to any town office within 3 years after the recall or resignation. (Citizen Petition) (requires majority vote)

ARTICLE BB

TO see if the Town will vote to amend Section V. PERMITTED USES IN ZONING DISTRICTS of the Zoning By-Law as set forth below with existing text to be deleted shown stricken, and new text to be inserted shown in bold; and further, that the Town Clerk be authorized to make any and all ministerial changes including but not lmited to grammar, punctuation, and corrections to the codification and numbering to ensure correctness.

C. ACCESSORY DWELLING UNITS

6. Rules for All Accessory Dwelling Units

Where an ADU is constructed, the minimum lease, whether the lessee occupies the ADU or the principal dwelling unit, shall be six twelve contiguous months. (Citizen Petition) (requires majority vote)

ARTICLE CC

To see if the Town will vote to delete from the Zoning By-law Section V, Parking Requirements, subsection C Conversions. The sentence reading "Any inn, hotel, business and industrial building existing on July 1, 1975 if not externally enlarged is exempted and not required to comply with the provisions of Section V. A and V. B. (Citizen Petition) (requires majority vote)

ARTICLE DD

To see if the Town will vote to delete from the zoning by-law the last sentence of Chapter XI, Open Space Residential Development, Subsection E, Dimensional Requirements, Subsection 4, Infrastructure, reading "To minimize environmental impacts, where practicable, residential units will have shared or clustered septic systems." (Citizen Petition) (requires majority vote)

ARTICLE EE

To see if the Town will hear, receive and act upon the report of the Ad Hoc Committee on Town Water Supply appointed pursuant to the vote of the 1980 Annual Town Meeting under Warrant Article 16 and extended by votes of successive Annual Town Meetings and extend the term of the Committee; or act on anything relative thereto. (Town Moderator) (requires majority vote)

ARTICLE FF

To see if the Town will adopt the following non-binding resolution:

"The Town Meeting respectfully requests that all Town officials make every effort to answer citizen questions relating to any article, which is moved at Town Meeting. The Town meeting respectfully requests that the Moderator instruct Town Counsel to answer any citizen questions related to any article being moved at Town Meeting." (Non-Binding Citizen Petition) (requires majority vote)

And you are directed to serve this Warrant by posting attested copies of the same at each of the Post Offices, and in other public places in each village of the Town, seven days at least before the day of the holding of said ANNUAL TOWN MEETING.

Hereof fail not and make due return of this Warrant, with your doings thereon, to the Town Clerk, three days at least before Saturday, April 1, 2023.

Given under our hands and seal of the Town this 14th day of March, 2023, A.D.

BOARD OF SELECTMEN

TOWN OF ROCKPORT

Ross C. Brackett, Chairperson

Sarah J. Wilkinson, Vice Chair

Paul F. Murphy, Selectperson

Herman S. Lilja, Selectperson

Denise C. Donnelly,

Selectperson

A TRUE COPY ATTEST:

Constable for the Town of Rockport

Pavid W. Kim